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ABSTRACT

Volume 1 of a two-volume series, this case study tells the story of the events and decisions associated with the 1976 court-ordered shutdown of schools in New Jersey. It also analyzes the state educational decision-making structure. The school closing was undertaken because, according to the New Jersey Supreme Court, the state had not properly enacted the school finance reform measures that were ordered in Robinson v. Cahill in 1973. Although the legislature had passed the Public School Education Act in response to the court mandate, it had failed to appropriate funds for the act. Closing of the schools for eight days resulted in the legislature passing a statewide income tax. Following the introduction, chapter 2 presents background information on the national finance reform movement, the legal context of school reform in New Jersey, the state economy and fiscal base, and the state's politics of education. Chapters 3 and 4 make an effort to identify major actors and events and convey their complex interactions in the decision-making process. Chapter 5 contains the analysis of events involved in the educational decision-making process. (Author/JM)

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DOCUMENTATION OF THE CRISIS IN PUBLIC EDUCATION IN NEW JERSEY: 1975-1976

Volume I
A Case Study Analysis

by

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TABLE OF CONTENTS

Page

PREFACE

LIST OF TABLES

LIST OF FIGURES

CHAPTER

I. INTRODUCTION 1

Purpose 2
Documentation 3
  Crisis in Public Education 3
  The Decision Situation: Environmental Uncertainty 4
  Education and Political Turbulence 6
Analysis 13
  State Educational Policy-Making 14
  Ambiguity and Organizational Choice 16
Footnotes 20

II. POLICY CONTEXT: SCHOOL FINANCE REFORM AND THE STATE OF NEW JERSEY 23

School Finance Reform 23
  Equal Educational Opportunity (EEO) 24
  EEO: A Function of Wealth? 26
  School Finance Litigation 27
The Legal Context of School Finance Reform in New Jersey 30
Changing Role of the State in Educational Governance 33
New Jersey Government and Politics 34
  A Weak State Government 34
  A Strong Local Tradition 35
  School Finance Reform: An Urban/Suburban Issue 35
  New Jersey Politics 38
  State Education Politics 39
New Jersey's Economic Base and Fiscal Structure 41
  The Economic Base 42
  The Fiscal Structure 48
Trends in Education and School Financing in New Jersey 55
Summary 60
Footnotes 61

Page

III. HISTORICAL AND ORGANIZATIONAL CONTEXT: ENVIRONMENTAL TURBULENCE AND ORGANIZATIONAL CHANGE 66

Historical Context: Environmental Turbulence 69
The Crisis in public Education: Defining T&E . . . 75
Fiscal Crisis: The Search for Revenue 86
Organizational Context: Organizational Change . . . 95
The Setting: Organizational Tensions Within the SDOE 98
Change in Leadership and the Reorganization 101
Implementation of the Reorganization 107
Impact: The T&E Planning Process 113
Summary of Organizational Context 115
Footnotes 121

IV. EDUCATIONAL DECISION-MAKING UNDER UNCERTAINTY 126

Statewide Minimum Standards 127
Educational Change in New Jersey 127
Statewide Assessment in New Jersey 133
Defining T&E: Statewide Minimum Standards? 137
Summary 159
Optional State Aid Figures 162
Background 165
Public School Education Act: Increased Uncertainty. 166
Confusion at the Local Level 171
The Supreme Court Acts: Continued Uncertainty . . 171
The Decision Process 173
Summary 183
Crisis Within a Crisis 184
The Court's Injunctive Order 188
The Income Tax Debate Intensifies 196
The SDOE and the School Closing Order 209
Summary 228
Footnotes 233

V. CONCLUSION 247

BIBLIOGRAPHY

APPENDIX

I. Methodology and Interview List
II. Our School Goals
III. Special Educational Financing Opinions
IV. Participants: Governor's Citizen Task Force
V. Impact of School Closing
VI. Task Force Recommendations

PREFACE

School finance reform has emerged as an important policy challenge to state government. The recent taxpayer revolt in California is not only a reflection of a growing concern over the level of funding for public services. The revolt also reflects a public inclination to question the funding arrangements supporting specific public services. Public schools are supported by the property tax and it is increasingly clear that the public is angry over rapidly increasing property tax rates.

The New Jersey experience with school finance reform resulted in statewide tax on personal income. Taxation issues normally generate intense emotions in the public and among its elected officials. In New Jersey, the school finance reform issue was dominated by the intense political bargaining over the income tax.

These fiscal controversies are evidence that the context of educational decision-making is changing. Educational administrators are trying to provide the high quality education expected by parents during this period of fiscal uncertainty. Moreover, the cost of education is increasing while student enrollments have begun to decline. Students of educational administration must begin to examine how educational organizations function in this changing context.

The debates over school finance reform normally occur in state legislatures and involve the subtle political issues involved in the creation of new state aid formulas. Most studies of school finance reform examine the state legislative politics or the fiscal dimensions of reform. This study is different in that it examines school finance reform by focusing on educational decision-making, especially in the New Jersey Department of Education.

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Richard W. Campbell

James D. Carroll

LIST OF TABLES

Table Page

Chapter II

1 SCHOOL EXPENDITURES FINANCED BY STATES FROM OWN SOURCES, 1966, IN RANK ORDER BY PERCENT 36

2 PERCENTAGE OF TOTAL WELFARE EXPENDITURES BY STATE AND LOCAL GOVERNMENTS, 1968 37

3 RECENT GROWTH IN PERSONAL INCOME IN NEW JERSEY, THE MID-ATLANTIC REGION AND THE NATION BY SELECTED SECTOR 43

4 PER CAPITA MONEY INCOME IN NEW JERSEY'S SELECTED SMSA'S, AND CENTRAL CITIES, 1969, 1972, 1974 46

5 GROWTH IN EMPLOYMENT FOR SELECTED NEW JERSEY SMSA'S BY INDUSTRIAL SECTOR, 1966, 1968, 1970-1975 49

6 TRENDS IN POPULATION FOR NEW JERSEY'S SELECTED SMSA'S AND CENTRAL CITIES, 1970, 1973, 1975 51

7 SELECTED FISCAL INDICATORS FOR NEW JERSEY AND THE NATION: 1970 and 1976 53

8 PER CAPITA AMOUNTS OF SELECTED REVENUE ITEMS OF STATE AND LOCAL GOVERNMENT FINANCES: THE NATION AND NEW JERSEY, 1969-1976 54

9 STATE AND LOCAL OWN SOURCE REVENUE BURDEN FOR THE NATION AND NEW JERSEY: 1969-1976 56

10 ELEMENTARY AND SECONDARY SCHOOL REVENUES, BY SOURCE, FOR SELECTED FISCAL YEARS, 1942-1973 . . . 57

11 DAY SCHOOL EXPENDITURES FOR NEW JERSEY. 59

12 AVERAGE SCHOOL DISTRICT ENROLLMENT FOR NEW JERSEY . 59

Chapter IV

1 STATE AID ALTERNATIVES, FOR SCHOOL YEAR, 1976-1977 170

LIST OF FIGURES

Figure Page

Chapter III

1 CHRONOLOGY: SCHOOL FINANCE REFORM IN NEW JERSEY 72

2 T&E CHRONOLOGY: DEVELOPING THE ADMINISTRATIVE CODE 77

3 LEGISLATIVE INDEX SHOWING CHRONOLOGICAL PROGRESS OF INCOME TAX BILL A 1513 94

Chapter IV

1 CHRONOLOGY OF CRISIS WITHIN A CRISIS 189

I

INTRODUCTION

On July 1, 1976, the educational system in New Jersey became the first statewide educational system ever to be shutdown by a court order. This unprecedented closing culminated a complex and intense effort to reform the method of financing the public schools. After the schools had been closed for eight days, and after several years of non-decision, the state legislature reluctantly acted to provide a statewide source of revenue which would insure the continued operation of a more equitable or "thorough and efficient" system of education.

In Robinson v. Cahill, the New Jersey Supreme Court initiated a policy-making dynamic which culminated in the adoption of a new statewide tax on personal income and a comprehensive overhaul of the state's educational system. The effort to reform school finance in New Jersey occurred in a crisis environment which constrained the educational decision-making process. Educators at all levels of government are increasingly forced to function in environments of considerable turbulence and conflict. How educational organizations deal with these environmental conditions is of increasing interest to those concerned with educational administration and is the focus of this case study.

PURPOSE

Education reform in New Jersey involved a complex policy formation process which produced a statewide income tax and a more clearly articulated definition of the state constitution's education clause, including a requirement for statewide minimum standards of proficiency in the basic skills. The reform process involved the early debate over the state-aid distribution formula; a broad-based effort to define the 'thorough and efficient" education clause; a protracted debate over the income tax; an emotional dialogue over basic skills and the statewide minimum standards issue; a disruption in the state-aid budgetary process; and, the closing of the schools.

The purpose of this case study is two-fold: (1) to document the events and decisions involved in the crisis in public education in New Jersey which was most dramatically manifest in the school closing, and (2) to analyze the state educational decision structure, focusing on the New Jersey Department of Education (SDOE). The documentation and the analysis are presented separately. The former comprises the major portion of this study and is contained in Chapters III and IV. It involves an effort to identify the major actors and events and convey their complex interactions in the decision process in an objective and narrative fashion. The analysis of the events involved in the educational decision process is confined to the conclusion, Chapter V.

DOCUMENTATION

Crisis in Public Education

In order to understand the New Jersey experience, one must examine both the issues and events distinctive to New Jersey as well as the manner in which pervasive changes in the politics of education were manifest in New Jersey. The crisis in public education involved stress and uncertainty at two levels. The first is the environmental uncertainty specific to the school finance reform process in New Jersey. In this context, "environment" refers to forces and events in New Jersey which constrained the decision processes of the department of education and its interactions with major educational organizations. These factors were poltical, fiscal, economic, legal, demographic, and social.. The second level is the political turbulence that has come to characterize the governance of education throughout the United States in the 1970's. This case study documents the confusion and turmoil which pervaded the effort to change the school funding patterns in the state and the process of redefining the responsibilities of the state government in the delivery of educational services. It also demonstrates how the turbulence in educational politics was specifically manifest in the New Jersey experience with school finance reform. This study is not concerned with documenting or assessing the changes in the financing of education or the intergovernmental shifts in responsibility which the T&E reforms produced; rather, the concern here is with the response of the state education agency to the demands for change. How did the environmental uncertainty associated with the fiscal chaos and the debate over the meaning of "thorough and efficient" (T&E) affect the educational decision-making process? How did educators make decisions in this tumultuous context?

The Decision Situation: Environmental Uncertainty

The so-called crisis presented the state's policy-makers with a decision situation which was seriously constrained by changing deadlines imposed by the N.J. Supreme Court. The crisis situation involved two components: (1) the conflict and compromises associated with the effort to articulate new educational goals for the state, or the process of defining the "thorough and efficient" clause; and (2) the confusion and turmoil rooted in legislative inaction on a new state revenue source, or the complex process associated with the effort to adopt a statewide income tax. The additional revenue was needed to affect the redistribution of state aid and to implement the new educational planning system, both of which were products of the effort to reform school finance.

The environmental uncertainty and ambiguity which confronted educators involved in this decision situation are presented in the discussion of the historical and organizational context contained in Chapter III. The situational variables which constrained the decision process will become clear through a brief discussion of the conflict associated with the effort to define the "thorough and efficient" clause and the political bargaining involved as state policy-makers searched for a new state revenue source. Since this study focuses on the N.J. Department of Education, the organizational context is set by emamining the effort to reorganize the department by the newly-appointed Commissioner of Education, Fred G. Burke.

Whereas in Chapter III the sources of turmoil which dominated the decision-making context are identified, the focus of Chapter IV is on how the educational organizations dealt with the environmental uncertainty, especially high-level decision-makers in the N.J. Department of Education. This research examined the process of organizational choice by focusing on three specific decision experiences: (1) the statewide minimum standards issue; (2) the certification of state aid for FY 1976-1977; and (3) the school closing crisis.

While these specific issues were distinctive to New Jersey, they were resolved in the context of important changes in the politics of education occurring throughout the United States. Educators are increasingly forced to function under orders from state and federal courts. They also must try to respond to an increasingly hostile public which is skeptical about the quality of educational services, given the high property taxes paid to support education. The New Jersey experience with school finance reform is one example of these changes. Others include: the experience with desegregation in Boston; the recent taxpayer revolt in California; and the school closings in Ohio. Students of educational governance refer to the political turbulence which has come to dominate the context of educational decision-making. These changes are recent phenomena and have not been clearly documented. This case study documents one example of the turbulence which pervades educational politics.

Education and Political Turbulence

For most of this century, educational governance was dominated by professionals who functioned in considerable isolation and independence from other institutions. Scholars of educational administration have described that system as closed and defined by a professional ideology predicated on both the separation of politics and administration and politics and education. Education developed an image similar to that of the "sacred cow." However, events of the 1960's and 1970's have changed all that. There is a rapidly growing literature, in both educational administration and the politics of education, which argues rather persuasively the the "cow" is no longer "sacred." Educational governance is undergoing fundamental changes.

Educational decision-making at all levels is increasingly constrained by environmental uncertainty which is largely a function of significant societal changes. The delivery of public services generally is subject to severe and very real financial constraints. Educators must deal with the reality of declining student enrollments during a period when the costs of education are increasing. Michael Kirst suggests that "At a time when public agencies of all types are undergoing extreme stress and a crisis of confidence, public education is, perhaps, experiencing more of these pressures than the average enterprise."[1] Laurence Iannacone argues that the "second revolution" in educational governance is upon us.[2] Frederick Wirt perceives a new politicization of the American schools which essentially involves "making overt what in the past has been sublimely covert."[3] And, Bernard Watson expounds on the significant changes in the context of educational decision-making.[4]

Laurence Iannacone argues that the "first revolution" in educational governance was part of the changes in public sector administration which occurred during the municipal reform movement at the turn of the century. This revolution produced a governance structure built upon the fundamental separation of politics and administration and the professional ideology it fostered stressing conflict avoidance and neutral competence. The neutral competence ideal evolved into the professional assertion of the power of expertise and the claim that educational issues were too complex and too sensitive for anything less than expert decisions. Robert Salisbury argued that "unity" was a basic dogma of educational administration which was instrumental to maintaining the ligitimacy and the authority of the claim of expertise:

> Maintaining maximum agreement among schoolmen is a central objective of both the political and professional activity of school leaders. If there are many competing "experts" advising the legislature, the legislators are likely to trust none of them. The desire for professional standing leads logically to the quest for unity. So does the notion so widely articulated among educators that education issues are or should be "non-political." i.e. beyond conflict.[5]

The expertise of the professional was supported by unity or consensus among educational actors. The consensus was maintained by an ideology which fostered a minimization or, as Iannacone has called it, a privitization of conflict. Boss et al. reflect this effort, suggesting that "although conflict may be generally discomforting, it is particularly discomforting in educational policy-making"[6] and Salisbury suggests that "educational groups and their specialized legislative friends are agreed that intense controversy on school questions is undesirable."[7]

The basic tenets of this professional ideology are being challenged. Frederick Wirt argues that the unity among educators is fragmenting as a result of clientele discontent and a changing constituency. Laurence Iannacone argues that, despite the structural bias to limit conflict, the scope of conflict and controversy on educational issues is expanding. Clientele changes and the expanding conflict in educational policy-making have resulted in a serious challenge to the expertise of educators,[8] and perhaps more basically, to the structure of educational governance and its dominant ideology. At the state level, this challenge is manifest in the growing divisions within the educational lobby and the shift in the locus of accomodation over educational issues to other institutions, the legislature and the courts. Mike Milstein and Robert Jennings see this in terms of a dilemma posed for the schoolman: "how does he work toward a new consensus for the support of the schools?"[9]

Frederick Wirt and Michael Kirst view education as a political system moved by demands and stresses in the environment.[10] Wirt has argued extensively that clientele changes and the changing composition of conflict on educational issues has produced a turbulence in education which essentially means that "the political system of American schools increasingly has lost its immunity from involvement with other political systems."[11] Wirt argues that the educational constituency is expanding and diversifying, resulting in competition with one another for scarce resources and values. Tensions occur within the educational community as each constituency is agitated by a different issue or set of issues. Parents are demanding an increased share in the control of the schools; taxpayers have reached their limit and are calling for financial reform; minorities are more vocal about getting their fair share; students are more conscious of their civil rights; and teachers have organized and established a separate base of power. The interests involved in this changing constituency are more inclined to conflict resulting in a number of issues which have shattered the unity of educators: desegregation, school finance reform, teacher militancy, citizen participation, and others. According to Wirt, this politicization of the educational system has produced a turbulence which has posed broad-based concerns over the quality and the quantity of educational services.

Laurence Iannacone has argued in various forums in recent years that educational governance is experiencing a second revolution. This new revolution is of equal magnitude to the first and will result in fundamental changes in the structure of educational governance. He cites the growing pluralism in education, which Wirt refers to as the changing constituency, and the structural changes occurring at the state level as indicative of the fragmentation in educational administration. He also cites a desertion of the intellectuals which Crane Brinton claims is the first stage of a revolution.[12]

Iannacone argues that the impetus for change lies in fundamental social forces which are challenging the larger political order, not just educational governance. However, these forces are manifest in education in an expanding scope of conflict which is the heart of the change in education. He contends that there is a mutual dependence "between the value of the issues around which political conflicts revolve, the coalitions of political actors engaged in these conflicts, and the structural features of the governments that channel such conflict."[13] He essentially argues that the values involved in educational issues are changing fundamentally given the expanding scope of controversy and as a result there will be a restructuring of the channeling and resolving of conflict in educational governance.

Iannacone's view is rooted in Schattschneider's conception of American politics "as a perennial struggle between tendencies toward 'privatizing conflict' which restricts its scope, and tendencies toward 'socializing conflict' which enlarges its scope."[14] The dominant ideology of professional educators resulted in a "mobilization of bias" in educational decision-making which restricted the scope of conflict by screening the issues which get placed on the public agenda. Michael Katz has argued that this 'bias' is largely a middle class bias while Robert Salisbury has suggested that fundamental and controversial issues such as race and religion are smothered.[15] Salisbury notes:

> in many states the schoolmen are strengthened in their commitment to the non-metropolitan part of the state by this fear of the divisive potential of the social composition of the big cities.[16]

Iannacone, Katz, Salisbury and others suggest that the privatization of conflict submerges basic value questions; however, it is emphasized that there are social forces extant which continuously raise them. Indeed, Iannacone argues that just as the first revolution was based in a concern over the cities, the changes underway reflect a sensitivity to the needs of the city and a commitment to greater equity and equality.

There are three major events which manifest the subtle forces and tensions which are challenging the dominant ideology of educational governance: the U.S. Supreme Court's desegregation decision in 1954; the aftermath of Sputnik in 1957; and the New York City teachers strike in 1960.[17] They involve issues which manifest basic and unresolvable tensions which the dominant ideology sought to stifle. The first two involve the plight of the city. The debate over integration has placed an emphasis on the difference in the quality of educational services received by different classes and races of children. The demand for more science and mathematics and higher achievement have placed a stress on the system to standardize education. The issue of statewide minimum standards as a vehicle to equalize student performance between the city and suburbs is a major issue in virtually every state. The teacher strike reflects a split in the claim to expertise as teacher groups "pit their claim of instructional expertise against the administrative claim."[18]

Clearly, conflict over educational issues reflects basic divisions in our society: between rural and urban, black and white, and have and have-nots. Bernard Watson focuses his discussion of the changes extant in educational administration on the crisis in values which are basic to the forces for change in our society and rooted in these basic societal divisions. Watson argues that the context of educational decision-making is changing, reflecting a crisis in values and a confrontation with the reality of pluralism. He argues that the myth of the melting pot has been exposed and various ethnic and minority groups are waging a struggle for equality. The crisis in values involves an increasing awareness of "the separation between American ideals and the reality of American life." The struggle for increased equality and the glaring evidence of its illusiveness has lead to a "crisis in meaning," or a pervasive mistrust of public institutions, especially education which is seen as the vehicle for economic and social mobility. Consequently, every aspect of school financing, governance, testing, and curricula content has come under attack.[19]

Watson identified a new context within which the schools must operate, a context radically different from the context of the schools of the 1940's. The most siginficant aspects of the new context are: "the demythologizing of education - putting to rest the fiction that education is apolitical - the unprecedented involvement in education by the courts and the federal government, the balkanization of school personnel, and the mobilization of client (students and community) interest power."[20]

In sum, whether it is called the second revolution, the new politics of education, or a changing context, educational governance is characterized by considerable turbulence. This turbulence involves a threat to the educator's claim of expertise, a changing and increasingly diverse constituency, an expanding scope of conflict, a fragmentation of the unity of schoolmen, and an increased role by other government institutions, most notably the courts. In educational governance, the values of efficiency, order and effectiveness have been modified, if not replaced, by equity, responsiveness, representativeness and accountability.

The most serious implication of this turbulence is the increasing ambiguity within which educators are forced to make decisions. Educational administrators must learn to deal with uncertainty and come to grips with what Bernard Watson has referred to as a "quandary - increased problems and responsibilities on the one hand and a curtailment of power on the other."[21]

ANALYSIS

The analysis involves an examination of the decision-making process from two perspectives: (1) the growing body of knowledge on the structure of educational policy-making at the state level, and (2) the increasing awareness by both practitioners and scholars that the increased turbulence in the environment of educational organizations constrains, in new ways, the process of organizational choice.

State Educational Policy-Making

Clearly, the fragmentation of educational governance and the expanding scope of conflict on educational issues is manifest at the state level. The specific form which the decision structures or influence patterns take and the manner in which conflict is resolved are uncertain and need to be investigated.

This study provides information relevant to such an analysis of educational decision-making in one state and will involve consideration of two elements: (1) the nature of the conflict involved and the structure within which it is resolved, and (2) identification of the relevant actors and their relative influence.

The first aspect of this analysis addresses the extent to which the political turbulence, as defined above, is evident in the school finance reform process in New Jersey.

The second aspect of this analysis adresses the relative influence of various state policy actors on educational issues. In most discussions of state educational policy-making, attention is directed to the following actors: The State Education Agency (SEA) comprised of the State Board of Education, the

Chief State School Officer (CSSO), and the State Department of Education (SDOE); educational interest groups or the education lobby, including the teachers association (NJEA), the school boards association (NJSBA), administrator organizations (NJASA), and the Congress of Parents and Teachers (PTA); the office of the Governor; and the state legislature and appropriate legislative committees. This analysis of New Jersey education politics follows this general pattern.

Early studies of state education politics tended to minimize the role of the governor and focused attention on the education lobby and the State Education Agency.[22] Iannacone developed his typology of state decision structures by focusing on the point of tangency between the legislature and the educational coalition, including the education lobby and the State Education Agency. More recent studies have demonstrated the important role of the governor and have confirmed Iannacone's prediction of the fragmentation of the education coalition at the state level, concluding that governors and legislatures are less inclined to accept the policy wishes and advice of educators at face value.

This analysis will focus on the relative influence of the actors noted above within the context of educational reform in New Jersey. As a point of comparison, this analysis relies on the findings of the Educational Governance Project, directed by Roald Campbell and Tim Mazzoni, which examined education policy-making in twelve states.[23]

Ambiguity and Organizational Choice

The analysis of the decision-making process within the state education decision structure in New Jersey focuses on the State Department of Education (SDOE). The school finance reform process was characterized by considerable uncertainty and turbulence. The courts represent a major new factor in educational decision-making and a significant element of the political turbulence dominating educational decision-making. The New Jersey Supreme Court played a critical role in the decision process under investigation, posing a number of mandates which served to constrain the decision process.

The theory of organized anarchy which emphasizes the non-rational aspects of organizational choice will be applied to the decision process.[24] This decision-making framework will be used in the same fashion that Graham Allison used his three models in an analysis of the decision-making process involved in the Cuban missile crisis.[25] Allison viewed his models loosely, emphasizing that they served as an organizing mechanism for presenting the complex aspects of the decision process.[26] The theory of organized anarchy helps to identify the complex interrelationships among actors and events. This framework provides merely one explanation of the decision process. As Allison emphasized, there are as many explanations of a particular phenomenon as there are different models applied to it.

It is widely recognized that all organizations at some time or another confront elements of ambiguity in decision-making. For some organizations, ambiguity is a dominant condition, especially organizations which are young or whose environments are changing. March and Olsen emphasize that ambiguity is a major feature of decision-making in most public and educational organizations. Their work in developing and applying the theory has been conducted in educational organizations.[27]

In their use of the term ambiguity, March and Olsen imply four kinds of "opaqueness" in organizations. The first is the ambiguity of intention or the recognition that organizations are characterized by inconsistent and ill-defined objectives. It is emphasized that "it is often impossible to specify a meaningful preference function for an organization that satisfies both the consistency requirements of theories of choice and the empirical requirements of describing organizational motive." The second lack of clarity involves the ambiguity of understanding. The causal world within which an organization functions is obscure: "Technologies are unclear; environments are difficult to interpret and it is hard to see the connection between organizational actions and their consequences." The third is the ambiguity of history in that the past may be recognized as important but not easily specified or interpreted. And, finally, there is an ambiguity of organization. It is argued that individuals vary in the attention they provide to different decisions, varying from one time to another. Consequently, the pattern of participation is uncertain and changing.[28]

This analysis involves an assessment of the extent to which this conception of ambiguity is descriptive of the decision process under investigation.

In the theory of organized anarchy, March and Olsen replace the rational model of choice with a garbage can model of choice. Decision opportunities are viewed as ambiguous stimuli. The choice opportunity is essentially an empty vessel, or garbage can, into which various kinds of problems and solutions are dumped by participants as they are generated.[29] Cohen, March and Olsen emphasize that the organization "is a collection of choices looking for problems, issues and feelings for decision situations in which they might be aired, solutions looking for issues to which they might be the answer and decision-makers looking for work."[30]

In addition to executing on-going responsibilities through routine procedures, the New Jersey Department of Education was responsible for a number of unique tasks which were implicit in the decision situation presented by the Robinson decisions: (1) coordination of the process of defining T&E; (2) preparation for its implementation by July 1, 1976; and (3) implementation of the T&E planning process in the school year 1976-1977. Its capacity to assume these new responsibilities was affected by internal and external factors. By applying the theory of organized anarchy to this process, these factors and their relative influence are identified and in this process of identification, some understanding of the choice process within the state education decision structure is reached.

In order to fully understand the decision process under investigation, it is necessary to place the process in the proper policy context. Chapter II develops the policy context by outlining the school finance reform movement in the United States as well as the legal context of school finance reform in New Jersey. Information related to the political, economic, legal, and demographic characteristics of the state of New Jersey is also provided.*

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*For a discussion of the methodology used in this study, as well as a list of the persons interviewed, see Appendix I.

I

FOOTNOTES

[1] Michael Kirst, ed., *State, School and Politics* (Lexington, Mass.: Lexington Books, 1972)L XVIII.

[2] Iannacone first suggested a revolution when he developed his typology of state educational governance structures in *The Politics of Education* (1967). However, he elaborates and presents *a more reasoned argument* in "Three Views of Change in Educational Politics: in Jay D. Scribner, *The Politics of Education*, The Seventy Sixth Yearbook of the *National Society for the* Study of Education (Chicago: University of Chicago Press, 1977).

[3] Frederick Wirt and Michael Kirst, *The Political Web of American Schools* (Lexington, Mass.: D.C. *Heath, 1972). Also see Frederick* Wirt, "State Politics of Education" in Herbert Jacob and Kenneth Vines, *Politics in the American States*, 3rd edition (Boston: Little, *Brown and* Co., 1976).

[4] Bernard Watson, "Issues Confronting Educational Administrators: 1954-74," in Cunningham, et. al., op. cit., (1977).

[5] Robert Salisbury, "State Politics and Education" in Herbert Jacob and Kenneth Vines, *Politics in the American States* (Boston: Little, Brown and Co., 1965): 348.

[6] Michael Boss, Harmon Zeigler, Harvey Tucker, and L.A. Wilson II, "Professionalism, Community Structure, and Decision-making School Superintendents and Interest Groups," in Samuel Gove and Frederick Wirt, *Political Science and School Politics* (Lexington, Mass.: D.C. Heath and Co., 1976).

[7] Salisbury, op. cit., 351.

[8] The threat to unity represents a significant threat to the expertise of educators; however, the research of Coleman, Jencks and others has also unraveled much of the traditional cloak of educational experts. See M. Chester Nolte, "How Fast is the Power of the Superintendent Slipping Away?" *American School Board Journal* (September, 1974): 43. For an early discussion of the difficulties of assessing effectiveness in education, see Jesse Burkhead, *Input and Output in Large City High Schools* (Syracuse, New York: Syracuse University Press, 1967).

[9] Robert E. Jennings and Mike M. Milstein, "The School Budget: Achieving Public Support for Education" in Mike M. Milstein and James A. Belasco, *Educational Administration and the Behavioral Sciences: A Systems Perspective* (Boston: Aleyn and Bacon, Inc., 1973):

[10] Wirt and Kirst, op. cit.

[11] Wirt, in Jacob and Vine, op. cit., 296. Also see Frederick Wirt "Political Turbulence and Administrative Authority in the Schools," in Louis Masotti and Robert Lineberry, eds., The New Urban Politics (Cambridge, Mass.: Ballinger, 1976).

[12] Laurence Iannacone, "Increasing Irresponsibility in Education: A Growing Gap Between Policy Planning and Operational Groups," in Michael Kirst, ed., State, School and Politics (Lexington, Mass.: D.C. Heath, 1972): See Crane Brinton, The Anatomy of Revolution (New York: Vintage Books, 1957).

[13] Iannacone, in Scribner, op. cit., 274.

[14] Iannocone in Scribner, op. cit., 260. See E.E. Schattschneider, The Semi-Sovereign People (New York: Holt, Rinehart and Winston, 1960).

[15] Michael Katz, Class, Bureaucracy, and Schools (New York: Praeger, 1971).

[16] Salisbury, in Jacob and Vine, op. cit., 347. Salisbury argues that these issues of concern to the cities are not too hot to handle and that a major strategy in limiting the scope of conflict has been to let the big schools work out their own problems apart from the rest of the state. Thus, local autonomy is an important instrument for limiting the scope of conflict. See Robert Salisbury, "Schools and Politics in the Big City," Harvard Educational Review 37 (Summer, 1967).

[17] Iannacone in Scribner, op. cit.

[18] Ibid., 284.

[19] Watson, in Cunningham, et. al., op. cit., 73.

[20] Ibid.

[21] Watson in Cunningham, et. al., op. cit., 78.

[22] Stephen K. Bailey, et. al., Schoolmen and Politics (Syracuse, New York: Syracuse University Press, 1963); Nicholas Masters, et. al., State Politics and the Public Schools (New York: Alfred A. Knopf, 1964); and Iannacone, op. cit.

[23] Roald Campbell and Tim L. Mazzoni, State Policy Making for the Public Schools: A Comparative Analysis (Columbus, Ohio: Educational Governance Project, Ohio State University, 1974).

[24] The theory of organized anarchy was first articulated in Michael D. Cohen, James G. March, and John P. Olsen, "A Garbage Can Model of Organizational Choice," Administrative Science Quarterly 17 (March, 1972): 1-25.

[25] Graham Allison- "Conceptual Models and the Cuban Missile Crisis" APSR (September, 1969): 689-718.

[26] See Graham Allison, Essence of Decision (Boston: Little, Brown, 1971). He presents three decision-making models: the rational actor model, the organizational process model, and the bureaucratic politics model. These models have been employed in studies of educational decision-making. See Paul E. Peterson, School Politics: Chicago Style (Chicago: University of Chicago, 1976) and Jerome T. Murphy, State Education Agencies and Discretionary Funds (Lexington, Mass.: D. C. Heath Co., 1974).

[27] March and Olsen, op. cit. and Michael D. Cohen and James G. March, Leadership and Ambiguity: The American College President (New York: McGraw-Hill, 1974).

[28] March and Olsen, op. cit., 12.

[29] Weiner, Stephen, "Educational Decision-Making in an Organized Anarchy" (Ph.D. Dissertation: Stanford University, 1973): 18.

[30] Cohen, March and Olsen, op. cit., 2.

II

POLICY CONTEXT: SCHOOL FINANCE REFORM AND THE STATE OF NEW JERSEY

The purpose of this chapter is to develop the policy context and to provide information on the political, economic, and fiscal characteristics of the state of New Jersey. This effort involves a discussion of the national movement to reform school financing; the legal context of school finance reform in New Jersey; the role of the state in educational governance; New Jersey state politics and governmental structure; New Jersey's economic base and fiscal structure; and relevant trends in education and school financing in New Jersey.

SCHOOL FINANCE REFORM

School finance reform provides the policy context within which a series of decisions critical to the future of education in New Jersey were made. The fundamental problem confronting the movement to reform school financing is the ambiguity of the term "equal educational opportunity." What does "equal educational opportunity" mean? What mix of ingredients in the educational production function will result in equal educational opportunity for the children of New Jersey? Questions like these preoccupied state policy-makers in New Jersey as they assumed the tasks of defining the education clause of the state constitution and revising the state's fiscal structure to conform with newly interpreted constitutional and legal requirements.

The formulation of public policy is normally a response to a demand for change. When political institutions such as state legislatures are unable to respond, the courts have increasingly shown a willingness to intervene. In the reform of school finance, the U.S. Supreme Court and numerous state courts have perceived the need to act. In many states, the courts have entered into a partnership with the state educational system in a major effort to define educational opportunity and to equalize educational opportunities for children irrespective of family income and place of residence.

Equal Educational Opportunity

The principle of equal educational opportunity was originally articulated in Brown v. Board of Education. In 1954, the U.S. Supreme Court ruled:

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms.[1]

Defining such a value-laden concept has involved considerable debate both in the academic literature and in the halls of courthouses and state education agencies. Implicit in the principle of equal educational opportunity is the notion that the quality of education received by a child in one school district should be similar to the quality of education in another district so that all children may have the necessary background with which to maximize their own abilities.

But how does one define quality? Within the context of school finance, there is considerable disagreement over how precisely dollar input is correlated with quality and educational opportunity.[2] However, most commentators acknowledge that adequate funding is necessary but not sufficient for quality education.[3]

Issued in 1964, the Coleman Report has contributed significantly to the dialogue which has shaped understanding of equal educational opportunity. Since it is this understanding which provides the foundation of various educational policies designed to deal with its attendant problems, reference to three important points made by the Coleman Report is warranted. First, in its survey of existing inequalities, the report found that a school's facilities are not as significant a determinant of student achievement as is social class, peer influence, and family integrity -- variables which are external to the school system. Second, the concept of equal educational opportunity has changed considerably over time as the perceived responsibility for student achievement has shifted from the family to the school. Third, with this recognition of the state's responsibility, the schools have necessarily become concerned with the results of schooling.[4]

The report emphasized the policy challenge which these findings pose to educational institutions at all levels of government. The emphasis on the importance of the family or environmental variables on the learning process and the shift in responsibility for student achievement combine to pose a significant question which is implicit in the school finance issue: What responsibility does the educational system have for compensating or trying to mitigate the divergent forces of a low-income environment? The answer is perhaps problematic, but the courts and educational institutions are attempting to fashion a politically acceptable response.

E.E.O.: A Function of Wealth

Assuming for the moment the contention that there is some validity to the cost-quality relationship, the basic method of financing education and its impact upon the question of equal educational opportunity warrant some discussion. For the most part, schools are financed locally through a property tax.[5] The revenue generated from a tax on real estate is a function of the wealth in a particular school district. Consequently, the more wealthy districts can support schools at higher levels and usually at lower tax rates than can low-wealth neighborhoods.

Since there is greater wealth in the suburbs, suburban areas can support schools at higher levels while paying lower tax rates than central city school districts. Municipal overburden and the declining tax base in the central city also contribute to the basic inequity between city and suburban schools. The inequalities that exist among school districts within a state have been documented in the decisions of the courts. The education literature has also devoted considerable effort to identifying the inequalities and their implications, especially the disparities between suburban and city school districts.[6]

School Finance Litigation

The current system of financing education is characterized by deficiencies and irrationalities which have constrained the effort to reform it and resulted in a body of legal theory which is complex and evolving. It is beyond the scope of this brief sketch to discuss this legal theory in any detail. However, it will be useful to provide a brief outline of the legal reasoning as a way of providing a context for the discussion of the institutional response in New Jersey to the Robinson decision.

The courts have construed equal educational opportunity to be related to wealth. They have assumed that there is a nexus between the cost of providing education and the quality of that education. The courts' opinions spend considerable time documenting the disparities in per-pupil expenditure which exist between low-wealth and high-wealth districts. Because education finance is based on wealth, low-wealth school districts do not have the resources to mitigate divergent forces of the low income environment.

In 1970, in Private Wealth and Public Education, Professors Coon, Clune and Sugarman articulated the "fiscal neutrality principle" which has served as a rationale to the flurry of court decisions which followed the publication of their book.[7] This standard essentially held that "the quality of education may not be a function of wealth other than the wealth of the state as a whole."[8] Despite a number of criticisms which were raised, especially as it affects central cities, this principle and the legal arguments that support it, "were eagerly seized upon by lawyers throughout the country who were seeking to overturn their states' systems of school finance."[9]

In 1971, the California Supreme Court, in Serrano v. Priest, relying upon the fiscal neutrality principle, ruled that the state's plan for financing public schools violated the equal protection clause of both the federal and state constitutions.[10] The court noted that the wealth-based discrimination resulting from use of the property tax was constitutionally suspect and that education was a fundamental interest. This was followed by a tidal wave of school finance litigation in other states until the U.S. Supreme Court ruling in March, 1973.[11]

The U.S. Supreme Court's ruling in San Antonio Independent School District v. Rodriguez shifted the flow of school finance litigation to the state arena.[12] The Court found that classification by district property was not suspect and that the Texas system did not disadvantage an identifiable class of poor persons.

Moreover, the Court emphasized, even if such a class were identifiable, there would be no equal protection violation since the deprivation was not absolute, only relative. The Court also questioned the cost-quality assumption and ruled that education was not a fundamental interest. The Court did not state specifically that the Texas system was just and fair which left the door open for further litigation within the state courts.

In light of the concern expressed here with the disparities which exist between urban and suburban areas, it is important to note that the fiscal neutrality principle did not escape criticism. First, local control advocates, especially in the suburbs, saw it as a threat to local autonomy in that it "seemed to require the elimination of the local property tax as a revenue source for education."[13] Second, it was criticized as having failed to recognize the problems of central cities. The principle hinged on the nexus between high property values and high per-pupil expenditures and was intended to benefit low-income or low-wealth districts. Levin suggests that:

> While application of this principle would help low property wealth districts, it would not necessarily benefit central city districts, which have comparatively high property values and often higher than average per pupil expenditure levels.[14]

The critics emphasized that the fiscal problems of central city schools are not a function of low property values but of the higher costs of educational and non-educational services. The children in the central city are considered "expensive-to-educate" due to the "divergent forces of the external environment" referred to earlier. The problem of municipal overburden and the competition with other services for the revenue from the urban property tax must be recognized as important factors in the financing of central city schools.[15]

THE LEGAL CONTEXT OF SCHOOL FINANCE REFORM IN NEW JERSEY

The New Jersey Supreme Court has a reputation for being an activist court which has not been afraid to render innovative policy decisions.[16] The court lived up to this tradition by playing a critical role in the school reform process through a series of seven decisions in Robinson v. Cahill.[17] The court continuously prodded the state policy-making machinery to deal with the concept of equal educational opportunity as it pertained to New Jersey citizens. The fact that the court took the initiative has significant implications for the process as well as the output of that process. It is beyond the scope of this study to deal with this point directly.[18] However, the continuing role which the court played as the state policy-making institutions grappled with the demands for change will be examined.

On January 19, 1972, Judge Botter of the New Jersey Superior Court, relying upon the fiscal neutrality principle and the precedent established in Serrano, ruled that education is a fundamental right and that the existing inequities among low-wealth and high-wealth school districts violated the equal protection clause of the state and federal constitutions. Noting that higher expenditures do not necessarily make for a better education, the court concluded that differential resources and spending adversely affect the quality of education provided by poor districts in violation of the education clause of the state constitution. Although the court was somewhat skeptical, it did conclude that "the only evidence offered in the case (did) show correlation between educational expenditures and pupil achievement over and above the influence of family and other environmental factors." The court emphasized that the wide disparities violated the equal protection rights of both children and taxpayers.[19] In concluding, Botter ordered the state to: (1) devise a tax program that would equalize the tax burden and (2) enact an education program consistent with the education clause.

The New Jersey Supreme Court issued its opinion just weeks after the Rodriguez decision. Consistent with the direction suggested by the U.S. Supreme Court, the court rejected the "fundamental right" and "compelling state interest" arguments and rebuffed the federal and state equal protection of the laws argument for both children and taxpayers. Accepting the finding of fact by the lower court in terms of wide disparities among school districts, the court focused its opinion on the education clause of the state constitution which mandates that:

> The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.[20]

The court recognized "that there is a significant connection between the sums expended and the quality of the educational opportunity."[21] The court did not rule out the use of local taxation and concluded that "The Constitution's guarantee must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market."[22] The Court emphasized that it is the state's obligation to maintain a thorough and efficient system and if a district fell short of that requirement, the state must intervene to restore it to a level consistent with the "thorough and efficient" standard.[23]

The court based its ruling on a clause which it recognized had never been clearly defined. Given the general guidelines noted above, the court ordered the legislature to define "thorough and efficient" and to devise a system of education consistent with that definition.

The opinion also addressed the finance issue in some detail. Having declared the existing financing scheme unconstitutional even if fully funded,[24] the court ordered the legislature to provide funds sufficient for the implementation of the newly defined "thorough and efficient" system.[25]

With these actions by the state court, state policy-makers were confronted with two imposing tasks: (1) the definition of a totally new educational system and (2) the enactment of a state-wide income tax to provide funding needed to implement the new "thorough and efficient" educational system.[26] Performance of these tasks resulted in fundamental changes in the state educational system. This study is not concerned with documenting or assessing these changes in the system; rather, the concern is with the response of the state education agency to these demands for change.

CHANGING ROLE OF STATE IN EDUCATIONAL GOVERNANCE

Although education is legally the responsibility of state government, education has traditionally been considered a local function and the ideology of local control has dominated educational policy-making. This is changing. In the early 1960's, a noted scholar of the politics of education perceived the need for an increased state role in dealing with the critical issues confronting education:

> Part of the political tension which surrounds and infuses contemporary educational finance controversies derives from the fact that in a highly interdependent, technological world, the myth of local control of educational policy is increasingly unrealistic.[27]

As the state contributes more funds to education, its control in education decision-making increases as well. Accountability of state agencies has emerged as a significant issue and is indicative of the increased state role. Donna Shalala and Mary Williams have recently concluded that despite the idea of local control, "states have emerged as the level of government primarily responsibile for education."[28] In Policymaking in American Public Education, John

Thompson summarized it very well:

> Local control, which has been the dominant feature of American education, has eroded because of the inability of local districts to meet the growing demands for education, and there has been a siginificant shift in the power affecting the control and support of education. Increasingly, the state has been called upon to provide resources and leadership for education. The state has become the major arena for decisions pertaining to financial education as well as for many other "hard" political decisions.[29]

With the increased state role, the responsibility of the state education agencies expands as more and more demands are directed specifically at them. State education agencies are emerging as critical actors in educational policy-making and will undoubtedly be urged to play a leadership role.[30] Consequently, understanding their part in state educational decision making becomes important to those who are concerned with educational policy.

NEW JERSEY GOVERNMENT AND POLITICS

A Weak State Government

New Jersey state government has traditionally played a nominal role in the delivery of governmental services to New Jersey residents. "New Jersey's heritage from the nineteenth century was a low level of state taxation and a small role for the state government in the provision of public services."[31] Indeed, the state government has continued to be plagued with an "identity crisis."[32] Located between Philadelphia and New York, residents of New Jersey identify with Philadelphia and New York athletic teams and the Philadelphia and New York press. "The focus of events in these two cities distracts attention from the accomplishments of New Jersey state government ... while the invisibility of state achievements reinforces the reluctance to increase state taxes and accentuates the reliance upon localities."[33]

A Strong Local Tradition

New Jersey politics is dominated by a strong commitment to local control. In American Federalism: A View from the States, Daniel Elazar examined the centralist/localist traditions of the 50 states. He categorized New Jersey as one of only four states to be strongly localistic.[34]

To get a comparative perspective on the New Jersey localistic tradition, tables 1 and 2 rank New Jersey state and local expenditures for education and public welfare.[35] With regard to educational expenditures, the state of New Jersey ranks fourth from the bottom while in the area of public welfare it ranks at the bottom with the local contribution being the highest in the nation.

School Finance Reform: An Urban/Suburban Issue

The urban/suburban dichotomy is an important factor in the process of reforming school finance generally and it is an especially critical factor in a state which is highly urbanized and largely dominated by a strong commitment to local control. In 1969, New Jersey was the most highly urbanized state in the nation with 87.2% of its population living in urban areas. In 1974, the percentage increased to 89.2% but it dropped to second in the rankings behind

TABLE 1

SCHOOL EXPENDITURES FINANCED BY STATES FROM OWN SOUCES, 1966, IN RANK ORDER BY PERCENT

50-100	30-49	5-29
Hawaii (C)	Texas (C)	Colorado (CL)
North Carolina (C)	Oklahoma (C)	North Dakota (CL)
Alabama (C)	Idaho (CL)	Illinois (CL)
New Mexico (C)	Arizona (CL)	Wisconsin (LC)
Louisiana (C)	Michigan (LC)	Ohio (LC)
Alaska (C)	Pennsylvania (LC)	South Dakota (CL)
Mississippi (C)	Nevada (C)	Iowa (L)
Delaware (LC)	Minnesota (LC)	New Jersey (L)
Georgia (C)	U.S. Median 40.4	Massachusetts (L)
South Carolina (C)	Wyoming (CL)	New Hamshire (L)
Kentucky (CL)	Kansas (LC)	Nebraska (LC)
Washington (CL)	Missouri (CL)	
West Virginia (LC)	Vermont (L)	
New York (LC)	Maine (L)	
Utah (CL)	California (CL)	
Tennessee (C)	Indiana (CL)	
Florida (C)	Rhode Island (LC)	
Arkansas (C)	Virginia (C)	
	Maryland (CL)	
	Connecticut (LC)	
	Oregon (LC)	
	Montana (CL)	

KEY:
C: Centralized
L: Localistic
LC: Shared with bias toward Localism
CL: Shared with bias toward Centralization

SOURCE: Advisory Commission on Intergovernmental Relations

TABLE 2

PERCENTAGE OF TOTAL PUBLIC WELFARE EXPENDITURES BY STATE AND LOCAL GOVERNMENTS, 1968[a]

	State	Local		State	Local
Alaska (C)	55.1	---	Ohio (LC)	43.9	5.2
Hawaii (C)	54.3	---	Maryland (CL)	45.0	5.6
Rhode Island (LC)	50.2	---	South Dakota (CL)	26.2	5.9
Washington (CL)	49.0	---	Michigan (LC)	45.7	7.3
New Mexico (C)	28.7	---	North Dakota (CL)	23.8	7.6
Louisiana (C)	27.5	---	Maine (L)	28.1	7.9
Arkansas (C)	25.4	---	Nebraska (LC)	28.2	9.1
Utah (CL)	35.5	---	Oregon (LC)	36.3	9.3
Missouri (CL)	33.9	0.1	Nevada (C)	30.4	10.5
Idaho (CL)	31.7	0.1	Delaware (LC)	30.8	11.3
Oklahoma (C)	31.2	0.1	Iowa (L)	31.7	11.4
Alabama (C)	23.8	0.1	Colorado (CL)	33.1	11.5
Arizona (CL)	27.9	0.2	North Carolina (C)	14.6	14.4
Connecticut (LC)	53.8	0.7	Virginia (C)	19.2	16.1
South Carolina (C)	25.4	0.7	California (CL)	33.1	16.9
Mississippi (C)	20.6	0.8	Wyoming (CL)	26.8	19.1
Kentucky (CL)	23.8	0.8	Indiana (CL)	28.5	19.2
Texas (C)	23.8	0.9	New Hampshire (L)	23.8	19.4
West Virginia (LC)	24.9	1.4	Massachusetts (LC)	31.1	21.4
Vermont (L)	31.3	1.6	Kansas (LC)	24.4	21.7
Florida (C)	22.9	2.3	Wisconsin (LC)	23.0	22.3
Pennsylvania (LC)	47.4	2.6	Minnesota (LC)	18.6	27.5
Illinois (CL)	49.4	3.5	New York (LC)	31.7	27.9
Georgia (C)	19.5	3.9	Montana (CL)	19.3	30.9
Tennessee (C)	20.3	4.8	New Jersey (L)	28.6	31.1

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[a] Remaining percentage represents federal expenditure

SOURCE: Advisory Commission on Intergovernmental Relations

California.[36] Elazar argues that "localism is growing in the suburbs of the great metropolitan areas as many of them seek to detach themselves from the big city problems nearby."[37] Given the strong local tradition in the suburbs, and the highly urbanized character of the state, the effort to reform school finance in New Jersey is very much an issue between suburban and urban school districts. The former are concerned over their continued autonomy while the urban districts recognize the need for an increased state role if New Jersey is to make any progress toward realizing the goal of equal educational opportunity.

New Jersey Politics[38]

New Jersey state politics is experiencing fundamental change. Policy-making in New Jersey has traditionally been dominated by a strong executive with political parties being controlled by county organizations and county chairman. The power of the county organization is eroding while the legislature is inclined to be less dominated by a strong governor.[39] John Blydenburg argues that "New Jersey's political system has begun an irreversible trend of evolutionary change more fundamental than a violent revolution could precipitate ... at last a state political system is developing in New Jersey."[40]

This change is inextricably bound to the struggle over the income tax which has monopolized New Jersey politics since 1965, especially during the past three or four years. County bosses opposed the statewide income tax. They were concerned that passage of the income tax would consummate a shift in political power to the state away from the county. Blydenburgh observed:

> For good or for ill, the institution of a progressive income tax means the destruction of the system whereby strong county party organizations chiefly determine New Jersey's future.[41]

Political leadership, particularly in the legislature, is changing. "Party organization is on the decline, the bonds of county are weakening, and the number of independent legislators is now on the rise."[42] The skepticism and mistrust of government,[43] which is perhaps a function of Watergate, has resulted in the election of new independent politicians who have bet their political futures on the inevitability of the shift in power to the state.[44]

State Education Politics

In his discussion of state policy-making, Stephen Bailey argued that the policy process is best understood in terms of three phenomena: (1) the emergence and coalescense of energizers; (2) strategy and tactics of consent-building; and (3) the infighting and decision-making of legislators and executives. In many states, the energizing and consent-building activities have become institutionalized.[45] Traditionally, in New Jersey school matters, these institutionalized activities have been embodied in the Princeton Group. Michael Usdan referred to it as "a fairly effective coalition of organizations which have banded together to support the public schools."[46]

In 1974, Kenneth Pack studied the educational decision process in New Jersey and concluded that the education coalition had fragmented. The Princeton Group began to meet less often and experienced some difficulty in reaching agreement on issues relevant to the education community.[47]

In his discussion of interest groups in New Jersey, Phillip Burch referred to the New Jersey Education Association as one of the three most powerful interest groups in the state.[48] As the education coalition disintegrates, Usdan et. al. suggest that the N.J.E.A. is growing increasingly detached and estranged from its traditional allies:

> Teachers are becoming more militant and the aggressiveness and bellicosity of their state organization, the N.J.E.A., supposedly is alienating administrators, school board members and PTA groups from the teachers.[49]

Clearly, the relationships among educational organizations in Trenton are experiencing fundamental change. As has been documented in a number of other states, educational organizations which had been inclined to agree with one another are now more inclined to pursue their own particular interests. The NJEA, the School Boards Association, the Administrator organizations, and other educational groups are finding it harder to agree on issues of importance to educators. The interrelationships and dependencies within the state education decision structure are unsettled and tend to emerge issue by issue.

NEW JERSEY'S ECONOMIC BASE AND FISCAL STRUCTURE[50]

The educational decision process under examination was constrained by a host of complex factors, some of which are more observable than others. In 1975, as the state's policy-makers tried to deal with the educational policy challenge posed by the New Jersey Supreme Court, it was widely claimed that the state was confronting a fiscal crisis. Indeed, many observers refer to this period of educational change in New Jersey as a period of financial crisis. Clearly, economic and fiscal pressures constrained the educational decisions made during this period. This section will explore the state's economic base and fiscal structure, focusing on the 1970's.

In the United States, stabilization policy is largely the domain of the federal government. However, in attempting to assess the economic vitality of a particular state, it is important to examine the complex interrelationships between its economic base and that of its cities, and its fiscal position.

Economists have asserted that employment, income and population changes, changes in the economic base, are related to the ability of a state and its local governments to finance public services. It is claimed that "the public sector cannot for any extended period of time continue to grow in excess of the private sector economic base that supports it without precipitating a financial crisis."[51]

In the early 1970's, the nation was confronted with two severe recessions. Data on New Jersey indicate that the recessions had a more severe impact in the state than in the nation and that the state's recovery was less strong than the nation's. The suburbanization of economic activity within the state accentuates the decline of the central city as well as the growing disparities between the central cities and their suburbs. This suburbanization and its implicit inequities are at the root of the fiscal crisis in New Jersey and continue to pose the policy puzzle which students of school financing must try to resolve.

The Economic Base

This analysis of the economic base in New Jersey will rely on data related to income, employment and population.

Income: The level of per capita personal income is one measure of the economic vitality of a state. In 1976, New Jersey enjoyed the third highest level of per capita income in the nation. Table 3 contains aggregate personal income figures for the period 1971 through 1976. While New Jersey experienced an average annual rate of growth of 8.44 percent, the state lagged behind the 10.03 percent rate of growth in the nation. This suggests that although New Jersey has enjoyed a high level of personal income in the 1970's, its economy has been outperformed by the rest of the nation.[52]

The national recession of the mid 1970's is reflected in New Jersey in the growth decline in all sectors from 1974-75, most

TABLE 3

RECENT GROWTH IN PERSONAL INCOME IN NEW JERSEY, THE MID-ATLANTIC REGION AND THE NATION BY SELECTED SECTOR

(billions)

New Jersey

	Total		Manufacturing		Wholesale + Retail Trade		Finance, Insurance, Real Estate		Services	
	Income	Growth	Income	Growth	Income	Growth	Income	Growth	Income	Growth
1971	36.123	—								
1972	38.928	7.77								
1973	42.406	8.93	9.709	—	5.225	—	1.449	—	9.695	—
1974	46.234	9.03	10.400	7.12	5.647	8.08	1.551	7.04	10.690	10.26
1975	49.591	7.26	10.441	0.39	6.055	7.23	1.647	6.19	11.490	7.48
1976	54.152	9.20	11.363	8.83	6.688	10.45	1.879	14.09	12.441	8.28
Average Annual Increase		8.44								

Mid-Atlantic Region

	Total		Manufacturing		Wholesale + Retail Trade		Finance, Insurance, Real Estate		Services	
	Income	Growth	Income	Growth	Income	Growth	Income	Growth	Income	Growth
1971	174132	—								
1972	187033	7.47								
1973	201831	7.91	44.621	—	26.241	—	10.685	—	53.159	—
1974	220373	9.19	47.913	7.38	28.043	6.87	11.349	6.21	57.820	8.77
1975	237481	7.76	47.976	0.13	29.554	5.39	12.376	9.05	63.123	9.17
1976	257461	8.41	52.183	8.77	32.037	8.40	13.574	9.68	67.037	6.20
Average Annual Increase		8.15								

TABLE 3 (CONT.)

The Nation

	Total		Manufacturing		Wholesale + Retail Trade		Finance, Insurance, Real Estate		Services	
	Income	Growth	Income	Growth	Income	Growth	Income	Growth	Income	Growth
1971	851952	—								
1972	935463	9.80								
1973	1045098	11.72	219.562	—	137.446	—	43.414	—	272.303	—
1974	1147257	9.78	237.407	8.13	150.650	9.61	45.893	5.71	297.407	9.22
1975	1246501	8.65	239.436	0.85	161.685	7.32	49.268	7.35	328.436	10.43
1976	1373511	10.19	271.138	13.24	179.693	11.13	55.712	13.08	357.547	8.86
Average Annual Increase		10.03								

Source: U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business vol.57 (August, 1977) pp 17-31.

vividly in the manufacturing sector. (See Table 3). From 1974-75, the nation experienced growth in the finance, insurance, real estate and services sectors while New Jersey experienced a decline. These figures suggest that the recovery brought less relief to the state than to the nation. During the period when the state was grappling with the income tax proposal, the state's economy was feeling the effects of the recession while much of the nation had begun a recovery.

The fiscal crisis also reflected the fact that the growth in income was not generated equally across the state. The data contained in Table 4 show a wide variation in per capita money income within the state as well as a wide variation in the growth of income. Clearly, the larger, northeastern urban centers in the state (Jersey City, Newark and Patterson) are growing slower than the state average.

The data in Table 4 also demonstrate the suburbanization of economic activity. In eleven of the fourteen cities which provide the nucleus of the eight SMSAs in the state, income growth did not keep pace with their suburbs.[53]

Employment: Employment data also suggest that the recovery from the recession was slower in New Jersey than in the rest of the nation. In 1973, New Jersey's employment growth fell from 3.25 to less than 1.0 percent in 1974 and absolutely declined by more than 4 percent in 1975.

TABLE 4

Per Capita Money Income in New Jersey's Selected SMSA's, and Central Cities

1969, 1972, 1974

SMSA	1969			1972			1974			Percentage Change 1972-1969		Percentage Change 1974-1969	
	SMSA	CC	CC/SMSA	SMSA	CC	CC/SMSA	SMSA	CC	CC/SMSA	SMSA	CC	SMSA	CC
Atlantic City	3064			3827			4416			24.90		44.14	
Atlantic City		2554	83.36		3176	82.99		3672	83.15		24.35		43.77
Jersey City	3196			3848			4514			20.40		41.42	
Jersey City		3056	95.62		3667	95.30		4298	95.21		19.99		40.64
Long Beach-Asbury Park	3629			4460			5222			22.90		43.90	
Long Beach		3388	93.36		4142	92.87		4997	95.69		22.26		47.49
Asbury Park		2757	75.97		3282	73.59		3757	71.95		19.04		36.27
Newark	3965			4781			5642			20.58		42.30	
Newark		2492	62.85		2903	60.72		3348	59.34		16.49		34.35
New Brunswick - Perth Amboy-Saverville	3519			4328			5171			22.99		46.95	
New Brunswick		3028	86.05		3651	84.36		4267	82.52		20.57		40.92
Perth Amboy		3139	89.20		3170	84.80		4290	82.96		16.92		36.67
Sayerville		3388	96.28		4152	95.93		5010	96.89		22.55		47.87

TABLE 4
(cont.)

SMSA	1969			1972			1974			Percentage Change 1972-1969		Percentage Change 1974-1969	
	SMSA	CC	CC/SMSA	SMSA	CC	CC/SMSA	SMSA	CC	CC/SMSA	SMSA	CC	SMSA	CC
Patterson-Clifton-Passaic	3466			4155			4839			19.88		39.61	
Patterson		2838	81.88		3282	78.99		3699	76.44		15.64		30.34
Clifton		4102	118.35		5002	120.39		5826	120.40		21.94		42.03
Passaic		3162	91.23		3676	88.47		4162	86.01		16.26		31.63
Trenton	3626			4477			5226			23.47		44.13	
Trenton		2723	75.10		3327	74.31		3831	73.31		22.18		40.64
Vineland-Milleville-Bridgeton	2882			3518			4100			22.07		42.61	
Vineland		2977	103.30		3601	102.36		4202	102.49		20.96		41.15
Milleville		3128	108.54		3702	105.23		4275	104.27		18.35		36.67
Bridgeton		2802	97.22		3450	98.07		3977	97.00		23.13		41.93
The State	3674			4460			5237			21.39		42.54	

Source: U.S. Department of Commerce, Bureau of the Census, Current Population in Reports: Population Estimates and Projections, Series p.25, No. 678 (1977).

The employment data on a metropolitan area basis in Table 5 support the findings reported in the discussion of income growth. The SMSAs in the northeastern corner of New Jersey are experiencing a steady deterioration of their employment bases. Jersey City has lost more than 29 thousand jobs in the past decade while Patterson has increased its employment base but by less than one thousand jobs.[54]

Population: As a third indicator of changing patterns of economic activity, New Jersey's population has experienced zero population growth in recent years. This is significant in that a steady level of population growth along with an increasing percentage of elderly people indicate a reduced capacity to finance public services. The suburbanization of economic activity is also reflected in the population data in that most of the central cities are losing population. (See Table 6).

Fiscal Structure

Just as the state's political complexion is dominated by a commitment to local control, the state's fiscal arrangement is locally dominated. The data contained in Table 7 show this local orientation as the state's share of financing responsibility and its share of direct expenditures is below the national average while the local governments' share in New Jersey are above the national average.[55]

Table 8 presents per capita revenue data for New Jersey and the nation from 1969 through 1976. The per capita tax payments

TABLE 5

GROWTH IN EMPLOYMENT FOR SELECTED NEW JERSEY SMSA'S BY INDUSTRIAL SECTOR, 1966, 1968, 1970-1975
(in thousands)

Industry	Atlantic City		Jersey City		Long Beach-Asbury Park		Newark	
ear	Employment	Growth	Employment	Growth	Employment	Growth	Employment	Growth
				Total				
1966	59.5	—	261.3	—	N.A.	—	794.9	—
1968	62.3	4.71	263.8	0.96	N.A.	—	826.0	3.91
1970	63.4	1.77	259.5	-1.63	119.9	—	855.1	3.52
1971	62.5	-1.42	248.6	-4.20	123.8	3.25	847.2	-0.92
1972	64.0	2.40	247.9	-0.28	128.6	3.88	857.3	1.19
1973	65.7	2.66	245.5	-0.97	133.7	3.97	873.8	1.92
1974	66.0	0.46	243.6	-0.77	137.1	2.54	869.9	-0.45
1975	63.4	-3.94	232.1	-4.72	136.6	-0.36	845.3	-2.83
				Manufacturing				
1966	10.0	—	118.3	—	N.A.	—	278.0	—
1968	11.3	13.0	114.9	-2.87	N.A.	—	278.2	0.72
1970	10.3	-6.36	106.9	-6.96	21.7	—	271.2	-2.52
1971	9.4	-8.74	98.2	-8.14	21.7	0.00	257.2	-5.16
1972	9.6	2.13	96.8	-1.43	22.4	3.23	254.9	-0.89
1973	10.1	5.21	93.7	-3.20	23.3	4.02	259.4	1.77
1974	10.0	-0.99	86.6	-7.58	23.0	-1.29	256.1	-1.27
1975	8.4	-16.00	76.3	-11.89	21.2	-7.83	232.4	-9.25
				Wholesale and Retail Trade				
1966	15.8	—	38.4	—	N.A.	—	153.1	—
1968	16.1	1.90	40.2	4.69	N.A.	—	157.3	2.74
1970	16.9	4.97	39.8	-1.00	26.9	—	166.0	5.53
1971	16.9	0.00	41.0	3.02	28.5	5.95	167.3	0.78
1972	17.9	5.92	43.1	5.12	30.4	6.67	169.9	1.55
1973	17.8	-0.56	43.0	-0.23	32.8	7.89	170.7	0.47
1974	17.9	0.56	43.2	0.47	33.8	3.05	167.5	-1.87
1975	17.2	-3.91	42.9	-0.69	33.8	0.00	162.5	-2.99
				Services Including Government				
1966	24.2	—	54.0	—	N.A.	—	219.5	—
1968	25.7	6.20	58.1	7.59	N.A.	—	241.9	10.21
1970	26.1	1.56	60.0	3.27	54.3	—	258.7	6.95
1971	26.3	0.77	60.5	0.83	55.9	2.95	264.0	2.05
1972	26.3	0.00	60.8	0.50	57.6	3.04	272.6	3.26
1973	26.9	2.28	62.5	2.80	58.9	2.26	279.6	2.57
1974	27.6	2.60	67.5	8.00	62.2	5.60	286.4	2.43
1975	28.3	2.54	70.2	4.00	65.8	5.79	296.9	3.67

TABLE 5 (CONT.)

Industry	New Brunswick-Perth Amboy-Sayerville		Patterson-Clifton-Dassail		Trenton		Vineland-Milleville-Bridgeton	
Year	Employment	Growth	Employment	Growth	Employment	Growth	Employment	Growth
				Total				
1966	175.5	---	173.4	---	122.9	---	N.A.	---
1968	194.2	10.66	179.9	3.75	127.3	3.58	N.A.	---
1970	217.2	11.84	184.4	2.50	135.4	6.36	48.8	---
1971	220.9	1.70	182.4	-1.08	137.9	1.85	48.7	-0.20
1972	228.2	3.30	185.9	1.92	143.0	3.70	51.3	5.34
1973	242.1	6.09	187.4	0.81	148.3	3.71	53.0	3.31
1974	249.9	3.22	183.8	-1.92	148.8	0.34	52.1	-1.70
1975	237.8	-4.84	174.3	-5.17	147.4	-0.94	50.0	-4.03
				Manufacturing				
1966	83.4	---	84.5	---	43.1	---	N.A.	---
1968	87.7	5.16	84.4	-0.12	41.0	-4.87	N.A.	---
1970	91.9	4.79	79.5	-5.81	39.7	-3.17	21.6	---
1971	86.3	-6.09	74.8	-5.91	38.3	-3.53	20.8	-3.70
1972	86.1	-0.23	75.7	1.20	39.3	2.61	21.2	1.92
1973	91.6	6.39	74.9	-1.06	40.9	4.07	21.7	2.36
1974	92.2	0.66	70.0	-6.54	39.3	-3.91	20.0	-7.83
1975	80.1	-13.12	63.3	-9.57	36.0	-8.40	17.8	-11.00
				Wholesale and Retail Trade				
1966	29.6	---	30.5	---	19.5	---	N.A.	---
1968	35.1	18.58	34.4	12.79	20.1	3.08	N.A.	---
1970	41.3	17.66	37.5	9.01	21.1	4.98	7.6	---
1971	45.2	9.44	38.5	2.67	21.5	1.90	7.6	0.0
1972	47.8	5.75	40.2	4.42	21.7	0.93	8.3	9.21
1973	50.7	6.07	40.6	1.00	22.3	2.76	8.5	2.41
1974	52.8	4.14	41.6	2.46	22.3	0.00	8.3	-2.35
1975	51.5	-2.46	39.8	-4.33	21.4	-4.04	7.6	-8.43
				Services Including Government				
1966	41.5	---	36.2	---	45.1	---	N.A.	---
1968	48.6	17.11	38.1	5.25	51.7	14.63	N.A.	---
1970	57.1	17.49	44.3	16.27	58.9	13.93	12.6	---
1971	60.5	5.95	45.3	2.26	63.0	6.96	13.0	3.17
1972	64.5	6.61	46.5	2.65	67.0	6.35	14.3	10.00
1973	67.3	4.34	47.8	2.80	69.8	4.18	15.0	4.90
1974	70.1	4.16	49.4	3.35	72.5	3.87	16.1	7.33
1975	73.6	4.99	51.4	4.05	75.7	4.41	17.4	8.07

Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings, States and Areas 1939-75, Bulletin 1370-12 (Washington: U.S. Government Printing Office), 1977.

TABLE 6

TRENDS IN POPULATION FOR NEW JERSEY'S SELECTED SMSA'S, AND CENTRAL CITIES: 1970, 1973, 1975

SMSA	1970		1973	
	SMSA	CC	SMSA	CC
Atlantic City	175,043		186,185	
Atlantic City		47,859		46,170
Jersey City	607,839		592,478	
Jersey City		260,350		252,652
Long Beach-Asbury Park	461,849		483,480	
Long Beach		31,774		31,355
Asbury Park		16,533		14,399
Newark	2,057,468		2,028,527	
Newark		381,930		360,588
New Brunswick-Perth Amboy Sayerville	583,813		595,950	
New Brunswick		41,885		45,064
Perth Amboy		38,798		37,584
Sayerville		32,508		34,174
Patterson-Clifton-Passaic	460,782		460,793	
Patterson		144,824		140,584
Clifton		82,437		81,000
Passaic		55,124		52,607
Trenton	304,116		317,298	
Trenton		104,786		104,764
Vineland-Milleville-Bridgeton	121,374		129,515	
Vineland		47,399		51,711
Milleville		21,366		23,919
Bridgeton		20,435		20,622
New Jersey		7,171,112		7,331,301
The Nation		203,805,000		209,844,000

TABLE 6 (CONT.)

SMSA	1975		Percentage Change 1973-70		Percentage Change 1975-73	
	SMSA	CC	SMSA	CC	SMSA	CC
Atlantic City	188,106		6.37		1.03	
Atlantic City		43,969		-3.53		-4.77
Jersey City	577,519		-2.53		-2.52	
Jersey City		243,756		-2.96		-3.52
Long Beach-Asbury Park	492,030		4.68		1.77	
Long Beach		31,007		-1.32		-1.11
Asbury Park		13,841		-12.91		-3.88
Newark	1,999,025		-1.41		-1.45	
Newark		339,568		-5.59		-5.83
New Brunswick-Perth Amboy-Sayerville	592,771		2.08		-0.53	
New Brunswick		47,420		7.59		5.23
Perth Amboy		35,963		-3.13		-4.31
Sayerville		33,329		5.12		-2.47
Patterson-Clifton-Possaic	452,432		0.00		-1.81	
Patterson		136,098		-2.93		-3.19
Clifton		79,467		-1.74		-1.89
Passaic		49,900		-4.57		-5.15
Trenton	318,374		4.33		0.34	
Trenton		101,365		-0.02		-3.24
Vineland-Milleville-Bridgeton	132,938		6.71		2.64	
Vineland		53,637		9.10		3.72
Milleville		25,119		11.95		5.02
Bridgeton		20,545		0.92		-0.37
New Jersey		7,332,965		2.23		0.02
The Nation		211,382,000		2.96		0.73

Source: U.S. Department of Commerce, Bureau of the Census, Current Population Reports Estimates and Projections, Series P-25, no. 678 (1977).

TABLE 7

SELECTED FISCAL INDICATORS FOR NEW JERSEY AND THE NATION: 1970 AND 1976

Category	New Jersey		The Nation	
	1970	1976	1970	1976
Percent of State and Local Expenditures Financed by:				
Federal	12.4	18.2	16.6	21.7
State	37.1	33.7	43.8	42.0
Local	50.4	48.1	39.1	36.4
Direct General Expenditures Share				
State	30.3	32.7	37.1	37.5
Local	69.7	67.3	62.9	62.5
Total State and Local per capita expenditures	$604.01	$1199.68	$646.31	$1190.50
Percentage of State Grants to Local Governments to Total State Expenditures	55.3	52.5	55.2	58.6
Percentage of State and Locally Financed Expenditures to State Personal Income	12.5	14.7	14.7	15.9
Percentage of Individual Income Tax Receipts to State and Local Own Source Revenues	0.5	4.7	8.42	15.9

SOURCES: U.S. Bureau of the Census, Government Finances in 1969-70, Series GF70, No. 5, U.S. Government Printing Office, Washington, D.C., 1971.
U.S. Bureau of the Census, Governmental Finances in 1975-76, Series GF76, No. 5, U.S. Government Printing Office, Washington, D.C., 1977.

TABLE 8

PER CAPITA AMOUNTS OF SELECTED REVENUE ITEMS OF STATE AND LOCAL GOVERNMENT FINANCES: THE NATION AND NEW JERSEY, 1969-1976

(dollars)

Year	Total General Revenue	Revenue From Own Sources	Total Taxes	Property Taxes	Charges and Miscellaneous Revenues
			New Jersey		
1969	537.98	476.93	406.06	226.68	70.36
1970	603.12	528.35	447.25	241.89	81.09
1971	694.14	589.85	498.55	272.64	91.30
1972	792.37	669.28	556.79	318.06	112.49
1973	899.21	758.21	630.51	348.32	127.70
1974	1011.81	847.83	683.19	379.23	164.64
1975	1081.76	890.48	725.48	412.59	165.00
1976	1174.68	960.95	792.83	446.48	168.12
			New Jersey Percent Change		
1970	12.11	10.90	10.14	6.71	15.25
1971	15.09	11.64	11.47	12.71	12.59
1972	14.15	26.67	11.68	16.66	23.21
1973	13.48	13.29	13.24	9.51	13.31
1974	12.52	11.82	8.36	8.87	28.93
1975	6.91	5.03	6.19	8.80	0.22
1976	8.59	7.91	9.28	8.21	1.89
			The Nation		
1969	567.35	472.49	379.94	151.92	92.54
1970	643.47	535.91	427.14	167.59	108.77
1971	702.65	575.89	460.47	183.51	115.42
1972	804.55	654.04	526.35	205.91	127.69
1973	906.25	719.18	577.08	215.78	142.33
1974	982.69	784.80	618.39	225.90	166.41
1975	1070.73	849.94	663.77	241.60	186.17
1976	1193.41	934.44	730.52	265.54	203.92
			The Nation Percent Change		
1970	13.42	13.42	12.42	10.31	17.54
1971	9.20	7.46	7.80	9.50	6.11
1972	14.50	13.57	14.31	12.21	10.63
1973	12.64	9.96	9.64	4.79	11.47
1974	8.43	9.12	7.16	4.69	16.92
1975	8.96	8.30	7.34	6.95	11.87
1976	11.46	9.94	10.06	9.91	9.53

Source: U.S. Bureau of the Census, *Governmental Finances in 1975-76*, Series GF76 No. 5, U.S. Government Printing Office, Washington, D.C. 1977. Also, other issues of Governmental Finances for the preceding years.

required by the state from its citizens are similar to the average payments nationally; however, New Jersey's dependence on the property tax is considerably higher than the national average. To obtain a measure of the tax burden imposed by the revenue structure, it is necessary to adjust tax payments in the state by the level of personal income. The data in Table 9 show that the tax burden in New Jersey generally is substantially lower than the national mean. However, the property tax burden is substantially higher than the national average and had been increasing at a rapid rate until 1975. A recent study of fiscal burden in New Jersey concluded that on the average, the state's larger urban communities experience a fiscal burden more than four times greater than the fiscal burden in the average non-urban community.[56]

Summary: In 1975-1976, New Jersey's economy was suffering from a recession while much of the rest of the nation had begun to enjoy a recovery. While many states were running budget surpluses, New Jersey was confronted with a revenue shortfall. Suburbanization of economic activity as evidenced in employment, income and population trends has resulted in increased fiscal pressure on the state's central cities. This fiscal tension has been exacerbated by the rather heavy reliance on the local property tax as a source of revenue.

TRENDS IN EDUCATION AND SCHOOL FINANCING IN NEW JERSEY

Education has been a growth industry for the past two decades. Table 10 contains national data on elementary and secondary school

TABLE 9

STATE AND LOCAL OWN SOURCE REVENUE BURDEN[1] FOR THE NATION AND NEW JERSEY: 1969-1976

(dollars)

State and Local Own Source Revenue Burden

	New Jersey		The Nation		
Year	Amount	Percent Change	Amount	Percent Change	New Jersey as a Percent of Nation
1969	121.42	---	139.53	---	87.02
1970	124.94	2.90	146.27	4.83	85.42
1971	130.14	4.16	148.67	1.64	87.54
1972	139.58	7.25	157.62	6.02	88.55
1973	144.80	3.74	161.36	2.37	89.74
1974	144.44	-0.25	156.83	-2.81	92.10
1975	142.28	-1.50	157.29	0.29	90.46
1976	143.34	0.75	159.53	1.42	89.85

The Property Tax Burden

	New Jersey		The Nation		
Year	Amount	Percent Change	Amount	Percent Change	New Jersey as a Percent of Nation
1969	57.77	---	44.86	---	128.78
1970	57.20	-0.99	45.74	1.96	125.05
1971	60.15	5.16	47.37	3.56	126.98
1972	65.05	8.15	49.15	3.76	132.35
1973	66.52	2.26	48.41	-1.51	137.41
1974	64.61	-2.87	45.14	-6.75	143.13
1975	65.92	2.03	44.71	-0.95	147.44
1976	66.60	1.03	45.33	1.39	146.92

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[1] Burden is measured as tax dollars per $1000 of personal income.

Source: U.S. Bureau of the Census, *Governmental Finances in 1975-76*, Series GF76 No. 5, U.S. Government Printing Office, Washington, D.C., 1977. Also, other issues of Governmental Finances for preceding years.

revenues for selected years between 1942 and 1973. These data show that education has expanded in absolute dollar terms and as a percent of GNP. Expenditures for education have also increased. In 1963-1964, eight billion dollars was expended for education while in 1973-1974, total expenditures had risen to 24.3 billion.[57]

TABLE 10

ELEMENTARY AND SECONDARY SCHOOL REVENUES,
BY SOURCE, FOR SELECTED FISCAL YEARS, 1942-1973

Source of Funds	1973	1971	1966	1957	1942
	Total (in millions)				
Federal	$ 4,129	$ 3,129	$ 2,003	$ 366	$ 132
State	21,319	17,371	9,915	4,400	753
Local	26,949	22,938	13,439	7,228	1,405
Total	$52,397	$43,438	$25,357	$11,994	$ 2,290
	Per Capita				
Federal	$ 19.68	$ 15.17	$ 10.24	$ 2.14	$ 0.98
State	101.59	84.24	50.70	25.70	5.59
Local	128.42	111.24	68.71	42.22	10.44
Total	$249.69	$210.65	$129.65	$70.05	$17.01
	As a Percent of the GNP				
Federal	0.3	0.3	0.3	0.1	0.1
State	1.7	1.7	1.4	1.0	0.5
Local	2.2	2.3	1.9	1.7	1.0
Total	4.3	4.3	3.5	2.8	1.6
	% Distribution among Levels of Government				
Federal	7.9	7.2	7.9	3.1	5.8
State	40.7	40.0	39.1	36.7	32.9
Local	51.4	52.8	53.0	60.3	61.4

SOURCE: National Education Association estimates, based on U.S. Bureau of the Census data, compiled by the Advisory Commission on Intergovernmental Relations, as reported in National Journal Reports 22 Feb. 1975, p. 284.

As noted above, New Jersey is well known for its low support of public services. Education is an exception. The public schools have been among the best funded in the nation. In New Jersey, total day school expenditures have increased significantly. In 1963, expenditures totalled 514.8 million or 2.23 percent of the Gross State Product (GSP). In 1972, the figure had risen by 181.6 percent to 1.45 billion which is equivalent to 4.1 percent of the 1972 GSP.[58] Table 11 shows the level of day school expenditures since 1973.

The growth in educational expenditures and revenues kept pace with the increasing student enrollments of the 1950's and 1960's. However, recent years have seen a decline in the growth of enrollments which is a serious constraint on the educational sector.[59] In New Jersey, enrollment has decreased. A New Jersey Department of Education study projected that enrollments will decline 10% by the end of the decade.[60] Table 12 shows the decline in average enrollment since 1972.

New Jersey has experienced continuous growth in school costs. In 1961, the statewide costs per pupil averaged $444.00. In 1971-72 school year, costs had climbed to $975.00 and in 1974, the Department of Education estimated that in 1975-76 the average cost per pupil will have risen to $1,580.[61]

Consistent with the local domination of the state's fiscal structure, New Jersey, compared to other states, has assumed a very low percentage of total expenditures. State aid has varied. Since 1962, the state contribution to educational revenues has averaged just under 16 percent.[62]

TABLE 11

DAY SCHOOL EXPENDITURES FOR NEW JERSEY

YEAR	EXPENDITURES
1973	1,648,635,972
1974	1,821,111,503
1975	2,017,712,077
1976	2,152,661,419

SOURCE: Twenty-Fifth Annual Report of the Commissioner of Education, Financial Statistics of School Districts, School Year, 1975-76.

TABLE 12

AVERAGE SCHOOL DISTRICT ENROLLMENT

YEAR	ENROLLMENT
1972	1,487,516
1973	1,482,781
1974	1,468,865
1975	1,456,967
1976	1,440,648

SOURCE: Twenty-Fifth Annual Report of the Commissioner of Education, Financial Statistics of School Districts, School Year, 1975-1976.

SUMMARY

The purpose of this chapter was to develop the policy and environmental context within which the educational decision process evolved. School finance reform is an equity-based issue which has been augmented by the active role played by state courts. The N.J. Supreme Court in Robinson v. Cahill placed the reform of school financing on the state's public agenda. This case study focuses on the response of the state's educational institutions to this judicial initiative.

The role of the state in educational policy has increased significantly in the past decade. With this expansion, the state departments of education are confronting changes in their normal operating processes. This centralization has also enhanced the role of state educational organizations such as teacher organizations, the school boards associations and administrator groups. The interrelationships among these major educational organizations in New Jersey were and remain in a state of flux.

The fiscal crisis which gripped the state in 1975 and 1976 was a function of a declining economic base in the state as a whole and in the central cities in particular as well as a slowed recovery from the national recession. Moreover, the locally-dominated fiscal structure exacerbated growing fiscal inequities between the state's suburbs and central cities.

Educators in New Jersey were also confronted with rising expenditures and declining enrollments during a period when the citizenry was skeptical about the effectiveness of educational programs.

II
FOOTNOTES

[1] Brown et. al. v. Board of Education at Topeka et. al., 347 U.S. 5 (1954): 493.

[2] For the different views on this basic issue, compare the following: James S. Coleman, Equality of Educational Opportunity (Washington, D.C.: GPO, 1966); James Guthrie, et. al., Schools and Inequality (Cambridge, Mass.: M.I.T. Press, 1971); Christopher Jencks, Inequality: A Reassessment of the Effect of Family and Schooling in America, (New York: Harper & Row, 1972); and, Frederick Mosteller, and Daniel Moynihan, eds., On Equality of Educational Opportunity (New York: Random House, 1972).

[3] Paul L. Tractenberg, "Reforming School Finance through State Constitutions: Robinson v. Cahill Points the Way" Rutgers Law Review, 27 (Special Issue, 1973).

[4] For a summary of the Coleman Report on "Equality of Education Opportunity," see James S. Coleman, "The Concept of Equality of Educational Opportunity" in Equal Educational Opportunity (Cambridge, Mass.: Harvard University Press, 1969): 16.

[5] For an excellent treatment of the economics of the property tax: see Dick Netzer Economics and the Property Tax (Washington, D.C.: Brookings Institution, 1966); on property tax incidence, see Henry J. Aaron, Who Pays the Property Tax? A New View (Washington, D.C.: Brookings Institution, 1975).

[6] The following works have addressed the inequities involved in the financing of public schools: Charles Benson, The Cheerful Prospect (Boston: Houghton-Mifflin, 1965); James Conant, Slums and Suburbs (New York: McGraw-Hill, 1961); Francis Keppel, The Necessary Revolution in American Education (New York: Harper & Row, 1966); Arthur Wise, Rich Schools, Poor Schools (Chicago: University of Chicago Press, 1967).

[7] John E. Coon, William H. Clune, and Stephen D. Sugarman, Private Wealth and Public Education (Cambridge, Mass.: Harvard University Press, 1970).

[8] Ibid., 2.

[9] Betsy Levin, Foreward to "Future Directions for School Finance Reform" in Law and Contemporary Problems 38 (Winter/Spring, 1973): 295.

[10] 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971).

[11] Between the time the California Supreme Court handed down its opinion in *Serrano* and the *Rodriguez* decision in March, 1973, some fifty-two actions were filed in thirty-one states, including New Jersey. See Levin, op. cit., 295.

[12] 411 U.S. 28 (1973).

[13] Levin, op. cit., 294.

[14] Ibid.

[15] For a detailed discussion of these issues, see Seymour Sacks, *City/Suburban Schools* (Syracuse, New York: Syracuse University Press, 1973).

[16] See Henry Glick, *Supreme Court in State Politics*, (New York: Basic Books, 1971). For a specific case documenting this activism, see *Southern Burlington Co. NAACP v. Mt. Laurel* 119 N.J. Super. 164, 290 A.2d 465 (1972).

[17] 118 N.J. Supp. 233, 278 N.2d 187 (Law Div. N.J. 1972). For the purpose of this study, a detailed analysis of the court decisions is not necessary. For those interested in such an analysis, see Paul S. Tractenberg, "Reforming School Finance Through State Constitutions: *Robinson v. Cahill* Points the Way" *Rutgers Law Review* 27 (Special Issue, 1973); and Paul S. Tractenberg, "*Robinson v. Cahill*: The 'Thorough and Efficient' Clause," *Law and Contemporary Problems* (Winter/Spring,1974). For assistance in assessing the large body of documents associated with this litigation, see Richard A. Cohen, James D. Carroll and Richard W. Campbell, "Robinson v. Cahill: A Compendium of Legal Documentation" (Trenton, N.J.: N.J. Department of Education, 1978).

[18] For an excellent case study of the role of the court in the policy process of reforming school finance in New Jersey, see Richard Lehne, *The Quest for Justice: The Politics of School Finance Reform* (New York: Longman, 1978).

[19] For an elaboration of the extent of the disparities, see the opinions of the court. As an example using 1971 data, the wealth behind each student in the wealthy suburb of Englewood Cliffs was $162,337 while the wealth behind a student in Newark was $19,680. See David Listokin, *Educational Financing Reform* (New Brunswick, New Jersey: Center for Urban Policy Research, Rutgers University, 1974).

[20] 1875 Amendment to Article IV, Section 7, clause 6 of 1844 New Jersey Constitution.

[21] 62 N.J. at 516.

[22] 62 N.J. at 515.

[23] The court constantly refers to the "state's" responsibility. The Constitution mandates that it is a legislative responsibility. However, in matters which require detailed treatment, the legislature traditionally delegates authority to the appropriate executive agency.

[24] The Court declared the Bateman plan even if fully funded to be unconstitutional. For a discussion of the distribution formula contained within Bateman and the funding and distribution options which were considered, see David Listokin, Educational Financing Reform: A Guide to Legislative Action (New Brunswick, New Jersey: Center for Urban Policy Research, Rutgers University, 1974).

[25] There are some who have argued that the Court should have limited its concern to the revenue-distribution element of the finance formula rather than getting involved in the revenue-raising aspects of the fiscal problem. See Tractenberg, op. cit., Rutgers Law Review (1973).

[26] The court did not mandate a specific revenue raising instrument; however, the Governor proposed a comprehensive tax reform package shortly after the Supreme Court's decision which called for a state-wide income tax.

[27] Stephen K. Bailey, Schoolmen and Politics (Syracuse: Syracuse University Press, 1962): 11.

[28] Donna Shalala and Mary Williams, "Political Perspectives on Efforts to Reform School Finance," Policy Studies Journal (Summer, 1976): 367.

[29] John T. Thompson, Policymaking in American Education: A Framework for Analysis, (Englewood Cliffs, N.J.: Prentice-Hall, 1976): 137.

[30] Jerome Murphy has emphasized that Title V of the Elementary and Secondary Education Act of 1965 was intended to strengthen SEAs. He concludes that because of erroneous assumptions about the way organizations behave, this effort failed. See Jerome Murphy, State Education Agencies and Discretionary Funds (Lexington, Mass.: Lexington Books, 1974).

[31] Richard Lehne, "Revenue and Expenditure Policies," in Alan Rosenthal and John Blydenburgh, eds., Politics in New Jersey (New Brunswick, N.J.: The Eagleton Institute of Politics, Rutgers University, 1975): 262.

[32] For example, the television coverage of the New Jersey Democratic primary on June 7, 1977 was titled "New Jersey: The Search for an Identity."

[33] Rosenthal and Blydenburgh, op. cit., 268.

[34] See Daniel Elazar, American Federalism: A View from the States (New York: Thomas Y. Crowell, 1966): 193-204.

[35] Tables are contained in Ibid., 201-204.

[36] "Where New Jersey Ranks," New Jersey Education Association, Circular A6-26, (November, 1976): 5.

[37] Elazar, op. cit., 198.

[38] For a good discussion of New Jersey politics, see Alan Rosenthal and John Blydenburgh, eds, Politics in New Jersey N.J.: Eagleton Institute of Politics, Rutgers University, 1975).

[39] Rosenthal and Blydenburgh, op. cit., 164-68.

[40] Ibid., 272.

[41] Ibid., 274.

[42] Ibid., 172.

[43] A poll conducted by the Eagleton Institute of Politics at Rutgers University, found that in 1973, 80% of New Jersey residents believed that the state government is corrupt. See Rosenthal and Blydenburgh, Ibid., 275.

[44] Ibid., 275.

[45] For example, the School Boards Association and the New Jersey Education Association builds grassroots support among their constituencies while the Department of Education operates primarily at the state level.

[46] Michael Usdan, et. al., Education and State Politics (New York: Teachers College Press, 1969): 112.

[47] Kenneth Pack, "The New Jersey Department of Education: The Marburger Years" (Ph.D. Dissertation, Rutgers University, 1974).

[48] Phillip Burch, "Interest Groups" in Alan Rosenthal and John Blydenburgh, Politics in New Jersey (New Brunswick: Eagleton Institute of Politics, Rutgers University, 1975): 81.

[49] Usdan, et. al., op. cit.

[50] This section relies heavily upon a report prepared by Joseph Liro specifically for this project. It is published separately, "An Economic and Fiscal Analysis of the State of New Jersey" (Syracuse: Syracuse University Metropolitan Studies Program, 1978).

[51] Ibid., 1.

[52] Ibid., 4.

[53] Ibid., 8.

[54] Ibid., 4.

[55] Ibid., 15.

[56] Andrew Reschovsky and James Knickman "State Financial Reform in New Jersey and the Urban Fiscal Crisis," (Trenton, N.J.: Department of Education, the Urban Education Observatory, 1976).

[57] Frederick Wirt, "Education Politics and Policies," in Herbert Jacob and Kenneth Vines eds., Politics in the American States 3rd ed., (Boston: Little, Brown, 1976): 326-330.

[58] Seventh Annual Report, Economic Policy Council and Office of Economic Policy, New Jersey Department of the Treasury, 1975: 21.

[59] See Susan Abramowitz and Stuart Rosenfeld, eds., Declining Enrollment: The Challenge of the Coming Decade (Washington, D.C.: National Institute of Education, March, 1978).

[60] Projected Enrollments, New Jersey Public School Districts 1973 to 1982, Division of Research, Planning and Evaluation, N.J. Department of Education, Report No. 12a, August, 1973.

[61] Seventh Annual Report, op. cit., 19.

[62] Ibid.

III

HISTORICAL AND ORGANIZATIONAL CONTEXT: ENVIRONMENTAL TURBULENCE AND ORGANIZATIONAL CHANGE

On July 1, 1976, the year of America's Bicentennial celebration and just three days before that special day of tribute to the system of government in the United States which has endured for over 200 years, the governmental system in the state of New Jersey experienced a shock which rattled that system to its roots. The public schools were shutdown by order of the New Jersey Supreme Court culminating a four year battle over the reform of school financing. The impact of this unprecedented event was severe: hundreds of employees of the N.J. Department of Education lost their jobs; summer programs were cancelled affecting thousands of children and adults who normally participate in those programs; planning for the 1976-77 school year was totally disrupted; and a host of more specific impacts which affected virtually all educational programming and the state's entire citizenry. This chapter introduces the events and actors involved in the process of educational and fiscal reform which lead to the school closing. These events marred New Jersey's bicentennial celebration as state legislators and executives spent the days around July 4 in intense consideration of a new unpopular tax on its citizens, a tax which was needed to reopen the state's public schools.

The historical and organizational context of educational decision-making during this period was one of considerable uncertainty and

and turbulence. The continuous evolution of the Robinson litigation involved a series of unpredictable decisions by the N.J. Supreme Court. These decisions seriously constrained the state's decision-making processes by imposing a number of changing deadlines designed to force the state legislature to take action on a state-wide income tax, an action it found most distasteful. In describing the setting, Richard Lehne observed:

> The court demanded legislative action on Robinson during the troublesome period from 1973 to 1976. New Jersey's lawmakers were required to concentrate on education issues when there was more public antagonism toward the schools than there had been in years, and they were required to raise additional school revenues when the state's economy was in its most sluggish condition since the great depression of the 1930's.[1]

The term "crisis" has been used rather loosely in recent discussions of public policy. In the past decade, the United States has experienced an environmental crisis, an urban crisis, an energy crisis and so on. However, "crisis" as it is employed here is used to describe the sense of urgency and stress that dominated the specific decision situation in Trenton, New Jersey, the state's capital. A crisis situation conceptualized as involving a sense of urgency normally involves an opportunity for affecting fundamental change; stress and anxiety among participants; threats to existing goals and objectives; a situation in which the requirement for action is high among the participants; and a situation where actors experience a loss of control over significant, relevant events.[2] These characteristics of a crisis decision situation are descriptive of the educational decision process in New Jersey.

The sense of urgency felt by the state's policy-makers was a function of the complex interplay between the N.J. Supreme Court and the state legislature. The supreme court was committed to establishing a more equitable system of financing education while the legislators were reluctant to act on the need for increased state revenue in a state where the voters are normally opposed to increasing state taxes.

The stress and urgency which characterized the situation was most severely felt by educators. It was the continued operation of the educational system which hung in the balance as the state attempted to reconcile conflicting values through a traumatic exchange between the supreme court and legislature. Educators felt a bit helpless. The continued operation of the educational delivery system was not a direct consequence of their own actions. Rather, it was the recalcitrance and non-decision of the state legislature which was the target of the Court's pressure. It was the action of the legislature on a fiscal issue which would affect the nature of and the continued functioning of the public school system. Educators were forced to conduct their affairs and execute their responsibilities while the state's judiciary and legislature decided their fate.

In setting the organizational context, the institutional response in terms of activity within the state department of education will be examined. How the leadership in the department dealt with this highly ambiguous decision situation is important to an understanding of the educational decision process.

Setting the historical context will involve an effort to describe the environmental turbulence which dominated the decision situation. The stress and trauma during this four year period varied in intensity with different actions taken by the various actors involved in the policy process, most notably the courts. The crisis mentality which gripped participants in this process was a function of the uncertainty and conflict associated with the effort to define the educational goals of the state and the political vicissitudes associated with the intense and prolonged battle over a statewide income tax.

HISTORICAL CONTEXT: ENVIRONMENTAL TURBULENCE

The state policy-making system was confronted with two crises: a crisis in public education and a fiscal crisis. The crisis in public education involved a fundamental assessment of the state's educational responsibility and was manifest in the process of defining the education clause of the state constitution. The fiscal crisis involved two dimensions. The first is the mismatch between needs and resources which is a basic problem in metropolitan development. This mismatch was crucial to the process of defining the state's educational goals as the court ordered the legislature and the executive to devise a system of education that would provide an equal educational opportunity for all school children in the state regardless of the disparity in wealth between urban and suburban areas. The second aspect of the fiscal crisis was rooted in the inaction of the state legislature with regard to a new revenue source which was needed to affect the redistribution of state aid and to implement the new T&E educational system.

The fiscal crisis and the crisis in public education provided a decision situation which offered the potential for change in two areas: (1) the state revenue structure and (2) the direction of education in the state. The potential for change in these two areas provided the critical uncertainties which the state education agency and other educational organizations had to contend with.

For the purpose of discussion, this single decision process can be divided into two arenas which can be viewed as both separate and meshed. On the one hand, they were distinct in terms of the outcomes produced by the decision processes. Essentially, the issue in the former was whether or not there would be an income tax. The exact nature or form of the tax was a subsidiary issue which evolved in response to the bargaining that was necessary to get the votes in support of an income tax in the state legislature. The issue confronting educators was the shape that change would take as a result of the opportunity for change presented by the crisis. The focus of this debate centered around the issue of whether or not there would be statewide minimum standards in the basic skills.

The two arenas were also meshed in that the revenue from the income tax was earmarked for education and would be used to implement the new educational system. Many of the major actors in one arena were also significantly involved in the other arena -- the governor, educational interest groups, the department of education, specific legislators, the media, taxpayer associations and other professional groups. The court's response to legislative recalcitrance regarding the income tax had a significant impact on the decision-making taking place within the educational arena very often in terms of time constraints. Finally, the uncertainties which emerged from the income tax issue were clearly manifest in the educational arena in terms of demands and constraints which the educational organizations had to respond to and function within.

The New Jersey experience involved a serious constitutional challenge. The court, the legislature, and the executive branches of government were involved in a complex policy process the purpose of which was to redress recognized inequities in the delivery of educational services. This process involved nonaction by the legislature; prodding by the court for legislative action; and aggressive action by the governor. The educational bureaucracy was forced into a reactive mode responding to constraints and contingencies emanating from the institutional interaction noted above. As a way of keeping the complex and rapid sequence of events in order, a chronology of events involved in the decision process is contained in figure 1.

FIGURE 1

CHRONOLOGY

SCHOOL FINANCE REFORM IN NEW JERSEY

YEAR	DATE	EVENT
1970	February 13	Ruvoldt files original *Robinson v. Cahill* complaint
1971	November 1-9	Trial court hearings on *Robinson*
1972	January 19	Judge Botter's trial court decision in *Robinson*
1973	January 9	*Robinson* argued before New Jersey Supreme Court
	April 3	New Jersey Supreme Court decides *Robinson*
	April 4	State Board of Education establishes task force to plan response to Robinson
	June 5	Governor Cahill defeated in primary election
	June 19	New Jersey Supreme Court establishes timetable for compliance which requires legislative action by December 31, 1974
	December 18	Richard Hughes sworn in as Chief Justice of New Jersey Supreme Court
1974	January 15	Brendan Byrne assumes office as Governor
	January	Byrne administration task force on education, finance and taxation is established
	April 9	Joint Education Committee is created
	May 15	Byrne administration presents its policy response including tax proposal to a joint session of New Jersey Legislature
	June 13	Report of Joint Education Committee to the New Jersey Legislature

FIGURE 1 (cont.)

YEAR	DATE	EVENT
1974	July 15	Byrne administration tax program passes Assembly
	July 24	Byrne administration tax program withdrawn in Senate
	October/November	Legislature considers statewide property tax plan
	December 31	Supreme Court deadline passes
1975	January 23	New Jersey Supreme Court establishes October 1 date for legislative action
	January 27	Byrne informs legislative leaders that he will push a new graduated income tax plan
	May 13	New Jersey Supreme Court rules that it will redistribute aid if the legislature does not act by October 1.
	April 24	Byrne concedes that his new tax plan is dead
	May 27	Senate passes Wiley-Burstein education bill -- Legislature committed to raising 325 million for school aid by July 1, 1976
	June 27	Senate rejects Byrne income tax plan. Governor reacts by cutting budget by 384 million in order to balance the budget
	September 29	Assembly passes Wiley-Burstein education bill
1976	January 30	New Jersey Supreme Court upholds constitutionality of Wiley-Burstein bill
	February 19	New Jersey Supreme Court issues order to show cause
	March 15-16	Assembly passes tax package
	May 13	New Jersey Supreme Court issues injunctive order threatening to close the schools unless legislature acts on tax by July 1, 1976

FIGURE 1 (cont.)

YEAR	DATE	EVENT
1976	June 30	Federal district court meets to review *Robinson*
	July 1	New Jersey schools close
	July 8	Legislature passes tax package
	July 9	New Jersey Supreme Court dissolves injunctive order

SOURCE: Compiled by the author drawing heavily from two sources: Richard Lehne, "Chronology of New Jersey School Finance Events" in *The Quest for Justice* (New York: Longman, 1978): 20-21, and Jay Moskowitz "New Jersey: In Search of a 'Thorough and Efficient' Education," (Education Policy Research Institute, Educational Testing Service, April 15, 1976): 7-9.

The Crisis in Public Education: Defining T&E

The perceived crisis in public education in New Jersey was a direct consequence of complex governmental action and inaction. The school finance reform movement was directed at redressing expenditure inequities imposed on disadvantaged students located largely in the cities as a result of reliance on a wealth-based property tax as the principal means of funding education. In Robinson v. Cahill, the New Jersey Supreme Court declared this system unconstitutional violating the education clause of the state constitution which provides that:

> The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.[3]

Although the court used this clause to declare the existing system of financing education unconstitutional, the court noted that the meaning of the clause was vague and ambiguous. The court demanded that the legislature working in conjunction with the executive define in specific terms the state's responsibility under this clause.

On April 4, 1973, one day after the N.J. Supreme Court's initial decision in Robinson, the State Board of Education established a task force charged with the responsibility for formulating a response to the Robinson mandate. The task force was headed by William Shine, Assistant Commissioner for Curriculum and Instruction in the department of education, and much of the work of the task force was performed by members of the department. The department had to choose between two vehicles which could be used to express the new education program: (1) a comprehensive revision of existing educational statutes or (2) new legislation accompanied by a detailed chapter in the department's administrative code for implementing it.[4]

The department chose the latter vehicle and over the course of the next three years expended considerable energy specifying the state's obligation under the T&E clause of the state's constitution through numerous drafts of the code. Figure 2 contains a chronology of events involved in the departments effort to develop a definition of T&E through the administrative code.

The process of drafting the administrative code involved a conscious effort for broad-based participation by professionals, interest group leaders, and citizens.[5] The department was determined to produce a document which would reflect the preferences of the people of the state as well as administrators from within the department. Conferences were held at Rutgers and Princeton Universities for the purpose of soliciting citizen and interest group input. The department organized hundreds of meetings for the purpose of discussing T&E and the code went through at least seven drafts before it was finally adopted in February, 1976.

In 1973, the divisions within the department devoted considerable time to the effort to define T&E. Administrators viewed this as an opportunity to feather their own nests: "when the agencies

FIGURE 2

T&E CHRONOLOGY

DEVELOPING THE ADMINISTRATIVE CODE

April 3, 1973	State Supreme Court decided Robinson v. Cahill
April 4, 1973	State Board established Task Force to develop T&E definition
April-August 1973	Department conducted literature search and surveyed other states
October 12-13, 1973	Board and Department initiated policy of massive public involvement in T&E process; conducted workshop attended by representatives of educational and civic organizations to develop questions central to T&E definition
Oct.-December 1973	Department divisions developed draft administrative code regulations as vehicle for definition
November 1973	Workshop participants and parent organizations submitted position papers and responses to over 600 item questionnaire; responses collected for Department staff use in preparing proposed code revisions and analyzed and distributed to all participants and organizations as basis for on-going discussion throughout State
December 11, 1973	Board Task Force met with Permanent Commission; received support for policy that Legislature should provide T&E definition and delegate responsibility for detailed administrative regulations to Board and Department
December 19, 1973	Department divisions submitted draft code provisions to Board and distributed copies to all participating organizations and individuals for review and comments
January 1974	Board Task Force met with new Senate and Assembly education committees; received support for efforts
February 1974	Administration Task Force on school finance organized; Deputy State Treasurer invites Department representatives to participate; begins active Department role in working with Administration and Legislature to develop proposed plan for T&E definition and funding

FIGURE 2 (cont.)

March 1-2, 1974	Board and Department conducted second T&E workshop to discuss draft code proposals
April 1974	Department prepared synopsis of issues raised at workshop for distribution to participating organizations and individuals
	Joint Education Committee formed; Department representatives continue active involvement at invitation of Senator Wiley, Chairman, and Assemblyman Burstein, Vice-Chairman
June 1974	State Board received revised draft of recommended code regulations; decided not to distribute it to organizations, individuals or the press as (1) it was still a draft and had not yet been reviewed, modified or adopted by the Board, and (2) the Board did not wish to detract attention from the report and bill of the Joint Education Committee, both of which the Board strongly endorsed by resolution at that meeting
	Joint Committee held public hearings on proposed legislation.
July 1974	Senate passed S-1295, providing for a legislative definition of T&E but without a state aid distribution provision; Assembly passed income tax, but tax not brought up for Senate vote; T&E bill then not voted upon by Assembly
December 31, 1974	Legislature fails to meet Supreme Court deadline for enactment of a plan for school finance reform consistent with the State Constitution
January 1, 1975	Parties petition Court for various types of relief
January 23, 1975	Court denies motions; calls for oral argument on specific issues relating to finance, T&E, Court's powers, and appointment of standing master
February 5, 1975	State Board distributes edited administrative code draft to all T&E participants for comment prior to intended March publication
February 20, 1975	State Board President Ruth Mancuso, School Finance Task Force chairman Allen Potter, Commissioner Fred G. Burke and staff meet with Joint Committee on the Public Schools to discuss possible modifications in Feb. draft code

FIGURE 2 (cont.)

March 5, 1975	State Board approves revised code for publication in the April, May and June issues of the N.J. *Register*; initiates four month review period by immediately distributing copies to all participating organizations and individuals; copies widely reproduced and disseminated
March 18, 1975	State Supreme Court hears oral argument on *Robinson v. Cahill*
April-May, 1975	Board members, Commissioner and staff speak to groups about code; continue to work with Joint Committee and all concerned parties
August 1, 1975	State Board receives a revised administrative code draft with accompanying communications that reflect concerns and comments following publication in April, May and June issues of the N.J. *Register*
October 1, 1975	State Board receives a revised working draft of the proposed administrative code regulations that reflect modifications resulting from all comments received since the March 5, 1975 version was published in the N.J. *Register*
October 7, 1975	State Board meets with Joint Committee on the Public Schools to further discuss possible modifications in the October 1, 1975 draft code
October 8, 1975	State Board distributes October 1, 1975 edited administrative code draft to all T&E project participants for comments due November 15, 1975

SOURCE: *Materials and Activities*, N.J. State Board of Education, October 20, 1975.

and divisions of the department were asked how their own activities should be altered to respond to the mandate of Robinson, almost every agency urged that it be given more resources. "Different parts of the department urged that an appropriate response to the court required more adult education, more testing, more vocational education, more remedial programs, and more school lunches."[6] On December 19, 1973, the task force presented the 300-page first draft of the revisions in the administrative code to the state board. One member of the department, reflecting the inter-divisional competition, characterized it as the department's "druthers document."[7]

Brendan Byrne was elected governor by the largest majority in the state's history in November, 1973. In January, 1974, he created a task force on education, finance and taxation. The administration's task force concerned itself primarily with the creation of a new state aid distribution formula and the development of a comprehensive tax reform proposal. With regard to the process of defining T&E, they tended to rely on the expertise and knowledge of the state board's task force.

In June, 1973, in the second Robinson decision, the court established a timetable for legislative action. The court instructed the legislature to design a method for funding education which would satisfy constitutional requirements by December 31, 1974. By that date, the legislature was required to produce legislation which would provide a new formula for the distribution of a greater amount of state aid for education and a more meaningful definition of the education clause. Shortly after the court's imposition of the deadline, the department, which had assumed a leadership role in the process of defining T&E, made the decision to request comprehensive legislation which would reflect the emerging T&E definition.

Traditionally, legislators have not played a significant role in educational policy-making. They accepted the myth that education is above politics preferring educational decisions cloaked in the rhetoric of professional expertise. However, times are changing and in 1973, legislators in New Jersey were more critical of the state's schools than were ordinary citizens.[8] Richard Lehne captured the mood of the legislature well:

> A majority believed that the schools were not doing a good job educating New Jersey's children, and almost all agreed that the schools had forgotten how to teach rudimentary skills. Many fumed when they recounted how ineffectively local school districts expended funds. Without prompting by interviewers, they related horror stories about expensive band uniforms, unnecessary supervisors, lavish football fields, and extraneous public relations personnel, topped only by one incredulous legislator who told of local school officials complaining that their new planetarium was not so well equipped as they had desired because of unreasonable fiscal constraints. One important lawmaker summarized the change in legislative attitudes toward education with these words: 'When I first came to the legislature, funds for education were sacrosanct, and I thought that I was doing good by supporting them unquestioningly. No more.'[9]

On April 9, 1974, one year after the initial supreme court decision in Robinson, the state legislature established a Joint Education Committee chaired by Senator Stephen Wiley and Assemblyman Albert Burstein. The joint committee held a number of public hearings in different locations throughout the state during May and June, 1974 in an effort to solicit broad-based citizen input.[10] The committee also contracted with a large number of recognized experts in the education field for position papers addressing specific issues related to the questions raised during the process of defining T&E.

In defining "thorough and efficient," the state policy-making institutions were essentially addressing the intractable issues related to the ambiguity over equal educational opportunity. The court, the joint education committee, and the state board task force assessed the conflicting social science evidence regarding three alternative approaches to equal educational opportunity. The output approach, or the claim that student's learning is directly related to attendance at school, received little support among educators who claimed an inability to develop realistic measures of student performance. The input approach which asserts that the quality of education is directly related to inputs such as teachers, facilities, equipment, and money was supported by the court. Despite its awareness of research such as that conducted by RAND which found that nothing consistently and unambiguously makes a difference in student outcomes,[11] the court concluded:

> We deal with the problem in those terms because dollar input is plainly relevant and because we have been shown no other viable criterion for measuring compliance with the constitutional mandate.[12]

A clear consensus, especially among educators, surfaced early in the process of defining T&E around the process approach to equal educational opportunity. Legislators were quick to reject the claim that increased educational expenditures will improve the quality of education. One assemblyman summed up a predominant legislative attitude:

> New York City's schools are better funded than the schools in New Jersey's richest suburbs, but you certainly cannot tell me that the schools in the Bronx work better than the schools in the suburbs. Clearly, facotrs other than the level of funding are involved and until someone can explain to me what they are and what benefits will come from increased educational expenditures, why should I support them?[13]

The consensus among educators on the process approach was largely a function of the myriad of perceived problems implicit in any effort to seriously measure educational output. The state board task force headed by William Shine "believed that the educational process was a subtle one, which could not be intelligently defined solely in terms of easily measurable items."[14] Moreover, it was argued that "education would be destroyed if schools concentrated their attention on topics that could be measured through standardized tests."[15]

The state board based much of their reasoning on the evidence contained in the Coleman Report which suggested that "equality of output is not so much determined by equality of the resource inputs, but by the power of these resources in bringing about achievement."[16] The power of these resources lies with the "intensity of school influences" which the state board argued is essentially equivalent to the educational process. The state board concluded:

> A statement which specifies the desirable relationships between the resources of education ("input") and student performance ("output") provides a sound basis for a definition of "thorough and efficient" education. This relationship is the educational process. To be "thorough and efficient" this process must set forth a succession of educational activities conducted in a definite manner and leading to the accomplishment of stated educational goals.[17]

The process is viewed as a management structure which involves the development and articulation of educational goals and objectives, an assessment of needs, the development and implementation of educational programs, the evaluation of program effectiveness, and a process of budget review.[18]

The state board task force and William Shine provided the early leadership in the efforts to define T&E. The Joint Education Committee did not prepare a program of its own. It was basically a "vehicle for introducing the executive branch proposal rather than a mechanism for explaining a genuinely legislative package."[19] In its report issued in June, 1974, the committee recommended that the legislature:

1. define the overall goal of a thorough and efficient system of free public schools in N.J.;
2. establish statutory guidelines within which such a system shall operate;
3. delegate to appropriate state and local agencies the authority both
   (a) to establish goals and objectives consistent with legislative guidelines;
   (b) to define standards of performance necessary to indicate achievement of these goals and objectives;

4. to establish a funding structure which will insure that adequate financial resources are available to enable the system of free public schools to operate throughout the state;

5. to monitor the system of free public schools and provide for corrective action when necessary to ensure adequate progress toward the achievement of goals and objectives.[20]

It included many of the specific proposals formulated by the state board task force. However, on July 24, the administration's proposal including the process approach to T&E and the tax reform package did not get through the senate and was withdrawn.

On December 31, 1974, the day of the court-imposed deadline, the legislature had not acted on either the tax package or the T&E legislation. The legislative inaction confronted the supreme court with a serious challenge to its credibility as a forceful actor in the process.

Since the original Robinson decision, the court had almost totally turned over and Justice Hughes had replaced Justice Weintraub as the Chief Justice. The new court granted the legislature an additional year to devise a new financing scheme suggesting that it would be "chaotic ... [for] many school districts to effect financial changes for the [upcoming] school year at this late date and on such short notice."[21] A student of the role of the N.J. Supreme Court in school finance reform made the following observation regarding the court's action: "Still coming together, perhaps lacking in self-confidence, certainly unsure of the full ramifications of aggressive action, the court majority chose to wait another year for a legislatively sanctioned program rather than impose a solution of their own to the Robinson issues."[22] Lehne emphasized that "many officials interpreted the years delay as a sign of retreat and indecision."[23] Governor Byrne was bitterly disappointed and the court's influence on the situation seemed to decline markedly.[24]

In its January 23, 1975 decision (Robinson IV), the court established October 1 as the new deadline for legislative action. The court became aware of the concern over its credibility as the result of its one year extension and on May 13, in Robinson IV, the court made another effort to prod the legislature and to redeem a bit of its reputation for agressiveness. The court offered its own state aid distribution plan which it promised to implement if the legislature did not act by October 1. On September 29, 1975, the legislature responded by enacting the Public Education Act.[25] It contained a new state aid formula and provided guidelines for the development of a more specific definition of T&E, which was coming to an end as the administrative code approached completion. Althought the legislature had acted substantively, it failed in one crucial respect -- it failed to provide the funding needed to implement the new act.

Fiscal Crisis: The Search for Revenue

The 1972-76 effort to reform school finance was not the first time that New Jersey confronted the issue. Over the past thirty years, there have been four efforts, one in each decade -- 1946, 1954, 1966 and 1970. The most recent effort produced the "Bateman Incentive Equalization Plan" which had not been fully-funded and for that reason was deemed unconstitutional by the supreme court in Robinson. The N.J. Economic Policy Council assessed this historical experience with school finance reform and concluded:

> There is something to be learned from these [experiences]. The most obvious aspect is the recurring nature of the school finance problem and the spasmodic attempts to resolve it. Each time there arose essentially the same questions and the same failure to find an enduring solution ... past experience should warn us that there is no merit in perceiving school finance or tax reform as a "one shot" problem subject to "once and for all" changes. There is a need for continuing investigation of the interrelations between educational finance, the cost and quality of educational inputs and the quality and distribution of the system's outputs.[26]

School finance reform generally involves questions of equity raised through the effort to devise a politically acceptable state aid distribution formula and, in many instances, the need for additional state revenue. In New Jersey, the latter surfaced as the critical issue as the state dealt with many income tax proposals.

The fiscal crisis in New Jersey was the product of the supreme court decision in Robinson as well as a sluggish economy and a tax structure dominated by reliance on the local property tax. Traditionally, New Jersey has resisted increased taxation. In the 1950's there was some talk about the need for a broad-based tax, such as an income tax or a sales tax, to provide the revenue needed to cover the rapidly increasing costs of state government. In a yearly effort to balance the state budget, the legislature accepted increases in excise taxes, corporation, inheritance, bank and several other minor taxes.[27] In the 1960's, these incremental increases were recognized as inadequate as Governors Hughes and Cahill proposed tax reform measures which included a tax on personal income. These efforts failed. However, in 1966, the legislature, after failing to adopt an income tax, passed its first broad-based tax in adopting a general sales tax.

In 1970, Governor Cahill created the prestigious New Jersey Tax Policy Committee to consider the need for comprehensive tax reform. The committee recommended a graduated personal income tax which was designed to achieve the following:

1. relief from excessive property taxation;
2. establishment of a balanced and equitable system of taxation;
3. creation of a tax structure, the yield from which will grow automatically with the economic growth of the state;
4. recapture more New Jersey tax revenues now flowing to the federal government.[28]

The income tax proposal, which would have raised 660 million in the first full year of operation, was defeated in the Assembly on July 17, 1972 by a vote of 23 to 52 after only four hours of debate.[29]

In its initial decision in Robinson v. Cahill on April 3, 1973, the supreme court articulated the need for the state to assume a greater share of the growing cost of public education.[30] It was recognized that additional state revenue would be needed if the state was to achieve an equalization of per pupil expenditures among school districts and a realization of a "thorough and efficient" education for all the state's children irrespective of place of residence.

Brendan Byrne was elected Governor in November, 1973, six months after the first supreme court decision in Robinson and thirteen months before the December 31, 1974 deadline imposed by the court. However, the effort to develop a new school financing scheme which would pass constitutional muster was well underway. The process of drafting the T&E regulations was in progress and it was becoming increasingly clear to persons associated with the emerging program that increased funding would be necessary in order to realistically respond to the court's mandate.

Byrne was elected by the greatest electoral margin in New Jersey history.[31] Byrne ran on a no tax position and continuously emphasized his position: "I have said loud and clear that I do not think we need an income tax in the foreseeable future."[32] When Brendan Byrne assumed the office of the Governor in January, 1974, it was clear that responding to the Robinson decision was the major challenge confronting the new administration.

Despite his campaign promises, shortly after assuming office, Byrne quickly realized that the rapidly rising costs of state government and the fiscal challenge posed by Robinson necessitated comprehensive tax reform. On May 15, 1974, before a joint session of the state legislature, Governor Byrne outlined the administration's response to Robinson. With regard to defining T&E, the governor's program relied extensively on the work of the state board task force headed by William Shine. With regard to state aid, the administration supported a guaranteed value aid program and proposed limitations or "caps" on local school district budget increases. With regard to the needed revenue, the governor seized upon Robinson "as a justification for proposing a program to raise more than one billion in new state revenue, truly a mammoth recommendation for a government whose expenditures at that time were in the neighborhood of two and one-half billion."[33] The Byrne package included: 550 million for implementation of T&E; 200 million for municipal overburden; and 300 million to cover the deficit or shortfall from existing state revenue sources.

The Byrne administration supported a tax on personal income as the best means for raising the needed revenue. Drawing on the work of the New Jersey Tax Policy Committee, the administration recommended a graduated income tax running from 1.5% on federal taxable incomes below $1000 to an 8% rate on income over $25,000. They emphasized that it was "the only equitable way to raise the revenue needed for this program of educational reform and property tax relief ..."[34] The proposal also stressed that the revenue realized from the tax would be earmarked for education.

In May, 1974, the legislature established a Joint Committee on State School Financing chaired by Senator Raymond Garramone which was charged with investigating alternative school funding sources. The Committee held a number of public hearings in which it became clear that there was significant citizen and interest group opposition to an income tax. There was considerable skepticism over the need for increased state spending and over the likelihood that the new revenue from the income tax would go directly to education. Many persons who testified cited the previous experience with the state lottery and the sales tax increase of 1970 which involved broken promises that the revenue would be used solely for education.[35]

Reacting to the administration's proposal, Senator Garramone emphasized that "we neither need nor desire a State income tax ... the decision in the Robinson case should not serve as a vehicle for massive changes in the tax structure ..."[36] This view summarized the attitude of many legislators who accepted the supreme court's mandate but, at the same time, objected strenuously to the administration's comprehensive tax reform proposal.

There were varying views in the legislature as to how the needed revenue should be raised. Some legislators favored a statewide property tax while others advocated a surtax on the federal income tax. Still others wanted a guarantee that the new revenue would go directly to local school districts rather than to state operations in the department of education. Generally, however, there was a feeling that the tax was unpopular at home in the localities and an obvious reluctance to support it. Lehne assessed the dominant legislative attitude toward a new statewide income tax:

> Regardless of their personal views, however, all legislators know that the enactment of an income tax would be a difficult chore, because it would be unpopular in their districts. Their mail, they said, usually ran six or eight to one against the tax, and the audiences they addressed were usually hostile to the idea. All lawmakers agreed that government has a special obligation to aid poor and disadvantaged communities, but many backed off when discussion shifted from general principles to proposals for specific legislative action.[37]

It came as a surprise when, on July 15, 1974, two months after the governor had presented his proposal to the legislature, the assembly passed the proposal with a vote of 41-38. However, the state senate was not as responsive. In a caucus on July 18, 1974, it became clear that there were not enough votes in the senate to insure passage of the governor's tax plan. The senate president, who was installed with Byrne's support, declared in a press conference that it was the wrong tax at the wrong time. On July 24, the administration withdrew its proposal which had not reached the floor of the senate for a vote.

During the remainder of 1974, tax plan after tax plan was rejected in the senate. As the December 31, 1974 deadline imposed by the court approached, there was an intense effort by executive and legislative leaders to formulate a politically acceptable plan. Their efforts failed once again and New Jersey entered 1975 with its legislature in violation of a supreme court order.

On January 23, 1975, the New Jersey Supreme Court established a new deadline for legislative action of October 1, 1975. Governor Byrne exerted considerable energy in support of his income tax package in the legislature. Although he continued to pressure the legislature, his public role diminished after his proposal was defeated. As an example of his strategy, in his budget message of February 5, 1975, the governor announced that due to a severe and unanticipated decline in revenue expectations, he would need 487 million to balance the budget and 300 million to replace local property taxes with state assistance.[38] In the summer of 1975, the legislature passed the tax package needed to balance the budget. It included taxes on unearned income, including capital gains, interests, dividends, and royalties from investments.[39]

Two days before the October 1, 1975 deadline, the legislature enacted the Public Education Act. However, the legislature was still unable to agree on an income tax proposal. The educational community had the new education act but it did not have the funding needed to implement it.

The examination of the educational decision process in Chapter IV focuses on the period following passage of this act through the adoption of the income tax on July 8, 1976 -- eight days after the schools had been closed by the supreme court. The search for funding, the political bargaining over the income tax, was a critical source of uncertainty which served to stifle efforts within the department of education as it prepared to implement the new T&E program.

The income tax travelled a bumpy road in the legislature. See figure 3 for a legislative history of the income tax bill which was

FIGURE 3

LEGISLATIVE INDEX SHOWING CHRONOLOGICAL PROGRESS OF INCOME TAX BILL A 1513

A 1513 (A 1666 2nd OCR - 1974) Hamilton, Burstein, Schuck, Martin

Feb. 19 -- Designated the "Gross Income Tax Act," imposes a 2% to 2.5% tax on taxable income as defined; provides an additional exemption for dependents attending non-public school; provides a homestead credit for tenants; repeals P.L. 1961, c. 32, P.L. 1971, c. 222 and P.L. 1975, c. 172; appropriates $5,000,000, effective July 1, 1976; inoperative unless and until S1546 and A1330 and A1663 are enacted.

Feb. 19, 1976 -- Taxation Com.
Mar. 10, 1976 -- Reported by com. sub.
Mar. 10, 1976 -- 2nd reading.
Mar. 12, 1976 -- Motion to make order of day tabled, (47-30).
Mar. 12, 1976 -- Recommitted.
Mar. 15, 1976 -- Reported with com. amend.
Mar. 15, 1976 -- 2nd Reading.
Mar. 15, 1976 -- Com. Sub. passed Assembly under emergency resolution, amend. (43-33).
Mar. 22, 1976 -- Received in Senate
Mar. 22, 1976 -- Revenue, Finance & Appropriations Com.
May 13, 1976 -- Reported with com. amend, without recommend.
May 13, 1976 -- 2nd reading.
May 19, 1976 -- Lost in Senate. (16-23)
June 14, 1976 -- Reconsidered.
June 14, 1976 -- Amended.
June 14, 1976 -- 2nd reading, amended.
June 17, 1976 -- Amended.
June 17, 1976 -- 2nd reading, amended.
June 17, 1976 -- Passed Senate under emerg. res., amended. (21-19)
June 21, 1976 -- Received in Assembly
June 21, 1976 -- Sen. amendments lost in Assembly. (2-77)
June 30, 1976 -- Motion to amend. Sen. amendments lost. (16-59)
July 2, 1976 -- Motion to amend. Sen. amendments lost. (37-37)
July 7, 1976 -- Motion to amend Senate amendments passed Assembly. (41-36)
July 8, 1976 -- Received in Senate.
July 8, 1976 -- Assemb. amend. passed in Senate. (22-18)
July 8, 1976 -- Approved, chapter 47, 1976.

introduced in the assembly. One is struck by the extent to which the income tax bill dominated the legislative session and the intensity of the continuing and tumultuous process of negotiation and bargaining.

Educators in the department of education and the educational interest groups supported the income tax because it would provide the revenue needed to maintain the delivery of educational services at a level consistent with existing policy expectations. However, during this period, educational professionals were preoccupied with the on-going effort to define the state's responsibility under the Robinson mandate. The department of education was responsible for devising and implementing the new T&E planning process. The new approach to education in the state imposed uncertainty on the operation of the department as it began to feel its way with the new educational program. The institutional response of the department to Robinson is important to understanding the educational decisions discussed in Chapter IV.

ORGANIZATIONAL CONTEXT: ORGANIZATIONAL CHANGE

In July, 1974, Governor Byrne appointed Fred G. Burke Commissioner of Education. Burke assumed his new responsibilities, including secretary to the State Board of Education and head of the department of education (SDOE), during a period of educational change. The SDOE was preoccupied with the T&E issue and its implications for a different state role in the educational delivery system. The new commissioner realized when he accepted the appointment that he was walking into an unstable situation, one which would demand the capacity to provide both political and professional leadership.

Given the demands for change that were directed at the SDOE through the effort to define T&E, Burke recognized the need to adapt the organization's structure. The attempt to reorganize the SDOE serves as a useful vehicle for exploring activities within the department as the educational community confronted the contingencies associated with the effort to define the state's educational goals and objectives.

Organizations can be viewed as systems of tension, or underlying and continuing disagreements.[40] Under normal conditions, organizations are subject to conflicting or competing forces which are normally maintained in equilibrium. This implies that organizations which are in the midst of change, such as the SDOE, experience conflicting and competing forces producing organizational disequilibrium. Certain forces within the organization dominate and are not balanced by forces of equal magnitude pulling in the other direction.[41] The opposing forces produce continuing sources of tension which exist in different forms in all organizations. Consequently, it is essential to an understanding of the department that organizational tensions extant at the time of the change in leadership be clearly identified.

One source of tension which exists in all public administrative organizations is that which arises from divergent views and desires about organizational purpose and degrees of emphasis among different purposes.[42] Tensions over organizational purpose are normally latent; however, in New Jersey, tension over the goals and objectives of the SDOE became clearly manifest. The process of defining T&E involved an open debate over the purposes and goals of T&E and their implications for the department.

The debate over the definition of T&E began in 1973 and centered around the question as to the most realistic approach to providing quality education. William Shine, Assistant Commissioner for Curriculum and Instruction, was designated T&E Moderator by the State Board of Education. Shine favored the process approach over the input and output approaches. The T&E process was designed to provide high quality education by requiring that all school districts go through a rational planning process which would be defined and monitored by the SDOE.[43]

Shine, a very articulate and energetic man, was able to create a rather strong consensus within the department and the educational community around the process approach. By the time Burke arrived in Trenton, the T&E process was well-entrenched. However, what the new process would involve in terms of state and local responsibilities and in terms of specific functions within the department was clearly open to further debate.

There are a number of other tensions that are latent in most organizations which were also clearly manifest in the SDOE during the period under examination. They included:

1. the conservative/change-oriented tension between pressures to maintain or preferably expand and enlarge program versus pressures to restrain or contract program
2. the centrifugal/centripetal tension over the locus of decision-making
3. the professionalism/work specialization tension
4. the "old and new" tension involving the innovating, threatening and changing elements within the organization versus the customary, established, secure and predictable.[44]

A brief organizational history is needed to understand how these tensions were manifest in the SDOE.

The Setting: Organizational Tensions Within SDOE

Carl Marburger served as Commissioner of Education from 1967-1973. He viewed the department as performing a change agent role in education. According to Kenneth Pack, Marburger had a dim view of education in New Jersey:

> It would appear that Marburger did perceive New Jersey to be an educational wasteland, a backwater of learning. He saw the entrenched state establishment as prime perpetrators of the inadequate status quo.[45]

If there was to be any improvement in the quality of education in New Jersey, Marburger envisioned a more proactive role for the department in educational policy-making.

Marburger used the Division of Research, Planning and Evaluation (RPE) as his major instrument for transforming the role of the department.[46] He saw RPE playing a strong interventionist role in traditional patterns of education. Under his tenure, the department established learning centers and laid the foundation for a statewide testing program. When he left the department in 1973, he left RPE with a staff of well-educated, highly motivated professionals who envisioned the state and SDOE as playing a more significant role in the educational process.

In contrast to the activity of RPE, the Division of Curriculum and Instruction (C&I) was left to execute its traditional operating responsibilities. Whereas RPE was getting involved in innovative and developmental activities, much of the C&I function involved program maintenance. The C&I staff was comprised of individuals who developed within the system. Administrators who served as principals or local or county superintendents received promotions and moved to Trenton to assume responsibilities for specific programs within their areas of specialization.

After Marburger left in 1973, Edward Kilpatrick, a former assistant Commissioner, became Acting Commissioner. The department experienced a hiatus during his tenure. Kilpatrick was quite ill and was unable to provide the leadership which the times demanded. Without strong leadership, the SDOE disintegrated into a number of autonomous units as the tensions noted above dominated internal processes.

Shine was a highly regarded, career civil servant who had come up through the ranks. A person who had worked with Shine in the design of T&E described him as conservative and a protector of local education.[47] A former Marine, Shine's style was authoritarian and he ran a hierarchically-structured division with considerable vigor. A high level staff person who had been with the department for some time, suggested that "Shine was rigid and traditional in his educational philosophy" and that he ran C&I "as a platoon in the Marines."[48] As head of the State board task force responsible for defining T&E, Shine emerged as a strong, widely-respected leader. During Kilpatrick's tenure as Acting Commissioner, it was widely recognized that Shine was running the department.

The organizational tensions within the SDOE involved an innovative, change-oriented RPE division and a conservative C&I division which served as protector of the status quo. Where Shine (C&I) was a strong advocate for local control, RPE lobbied for a greater, more proactive state role. Where RPE was actively seeking change and innovation, C&I resisted change. Shine argued that T&E was not necessary, that indeed the educational system was already thorough and efficient. The tension between the old and new also involved RPE and C&I. Marburger had appointed persons from outside the state and with different academic backgrounds to the RPE staff while the C&I division was staffed by the old, more traditional, career civil servants.

Change in Leadership and the Reorganization

The departmental reorganization was essent[illegible] an effort to mitigate some of the tensions identified above as well [illegible] an organizational response to the demands associated with the emerging definition of T&E. This section involves an examination of the decision to reorganize, looking at both the decision process and the substance of the reorganization effort as well as its implementation. It is argued here that with the organizational changes imposed by the reorganization, new tensions surfaced and older tensions took new forms.

There were two important elements involved in Commissioner Burke's decision to reorganize. First, T&E involved a redefinition of the purposes of the department. The department tried to identify possible functions which it would assume in the new T&E planning process and then work backwards to structure the department in a way that would facilitate the performance of those functions. Second, during the hiatus under Acting Commissioner Kilpatrick, the department had become fragmented as divisions and offices within the department disintegrated into independent fiefdoms. It was important that the reorganization address these two fundamental problems. In other words, the new commissioner had to prepare the department to assume responsibilities associated with the implementation of T&E which were not yet clearly defined; and, he had to confront the interdivisional and interpersonal tensions that had surfaced during the previous year.[49]

The department's leadership decided early that the implementation of T&E would involve a decentralized planning process. In October, 1974, Burke presented a reorganization plan to the Subcommittee on the County of the Joint Education Committee. The proposal involved a regionalization and strengthening of the county offices. The proposal to regionalize the county offices which would reduce the number of counties from twenty-one to seventeen failed. However, the proposal to decentralize much of the T&E monitoring activity met with considerable consensus including strong advocates of local control.[50] The monitoring function would be performed by the county offices and newly-established Educational Improvement Centers (EICs). Their capacity to assume the monitoring responsibilities would be augmented by a decentralization of much of the department's C&I function. Under the proposal, the county offices would become "miniature departments of education" and the EICs would provide technical assistance to local school districts.[51]

The most immediate problem confronting the new commissioner was a department which had grown stagnant and fragmented and one which desperately needed to be revitalized. As one departmental staff member put it, when Commissioner Burke arrived the department was a "mess;" the "divisions were in shambles;" there was "no leadership;" and the "biggest game in town was politics rather than education."[52] Moreover, another staff member from the department emphasized that he inherited a department with a "negative image" among state politicians, bureaucrats and the people. The SDOE building was referred to as the "marble palace" or the "ice house" implying that it embodied a "cold, hard, unresponsive bureaucracy."[53]

Although Commissioner Burke did not state that this was his intention, certain changes in personnel and shifts in responsibility among divisions were a response to the stress and anxiety associated with the organizational tensions described above. A number of actions were taken to deal with these internal problems: two key appointments involving senior staff; a complete reorganization of the Division of Curriculum and Instruction including changing its name to School Programs; a more protracted reorganization of RPE under the leadership of its new assistant commissioner; a strengthening of the office of the Deputy Commissioner; and the establishment of a modified MBO system.

While Kilpatrick was Acting Commissioner, there was considerable concern both within the department and within the educational community over who would become the new commissioner. Within the department there were a number of high level staff who were actively seeking the position. William Shine was the leading candidate in light of his critical and visible role as the person primarily responsible for the design and development of T&E. Robert Ward who headed the Bureau of Program Development in the RPE Division actively sought the position as well.

Governor Byrne decided to go outside the department and the state to appoint Fred Burke Commissioner. Burke came from an academic background with an interest in development administration and had done extensive work in Africa. Before coming to New Jersey in 1974, Burke had served as Commissioner of Education in Rhode Island.

Within the educational community there was some skepticism about Burke as an outsider. He was not from within the ranks of education in New Jersey and much of his background was as a political scientist not as an educator. With Burke's arrival, the organizational tension between outsiders and insiders surfaced. His first two major appointments were persons from outside New Jersey which contributed to this outsider/insider tension as well as the tension between the new and the old personnel. Dr. Ralph Lataille who had served as Deputy Assistant Commissioner for Personnel in Rhode Island was appointed Deputy Commissioner and Dr. Gary Gappert, a Professor of Urban Affairs at the University of Wisconsin, became the Assistant Commissioner for the Division of Research, Planning and Evaluation (RPE). Lataille and Gappert assumed their responsibilities in December, 1974, and contributed significantly to the emerging developmental function within the department.

Burke believed that the Deputy Commissioner's role in New Jersey had not been very well defined. He wanted a strong deputy who could help him pull a fragmented department together.[54] This was a significant appointment not only for the important organizational role Burke envisioned for this person but also because it involved the rejection of William Shine who had also been rejected in his bid for the Commissioner's position. Several sources indicate that

Shine, who had headed the C&I Division and served as T&E Moderator, had virtually run the department during the hiatus under Kilpatrick. However, as a result of his aggressive leadership style, Shine had alienated a number of high-level staff people in the department and was a critical element involved in the tension between RPE and C&I. He was not in a position to play an important integrating role in the department. After Burke appointed Lataille, Shine proposed that a new Deputy Commissioner position was needed to coordinate the implementation of T&E. His reorganization proposal was not accepted and during the summer of 1975 Shine left the department to become Superintendent of Schools in Cherry Hill.

The strengthening of the Deputy's office was an important part of the reorganization. The Deputy would supervise the county offices which are the heart of the T&E monitoring system. Many of the functions performed by specialists in the old C&I division had been decentralized to the counties and consequently would now fall under the deputy's jurisdiction.[55] He would also supervise the administration of the Bureau of Grants Management, the Office of Equal Educational Opportunity, and the legislative liaison function.

Shortly after his arrival, the new commissioner realized that RPE was "the most completely disruptive division" in the department,[56] which was in part a legacy of Marburger's effort to establish a change oriented interventionist division. Between 1972 and 1974, the division had experienced a number of acting assistant commissioners. When Burke arrived, Catherine Havrilevsky had responsibility for both the Division of Field Services and RPE. According to Havrilevsky, the division was "fraught with a lack of direction" from the time Stan Salett, Assistant Commissioner under Marburger, left and was in "total disarray" when Gappert took over. Ms. Havrilevsky suggested that the RPE "staff seized the opportunity of a lack of leadership" and in her opinion "there were a lot of self-initiated projects going on which may not have contributed to the overall departmental mission."[57]

The new division head, Gary Gappert, agreed that when he assumed his responsibilities, the division was "very disorganized." In his view, he did not inherit a division. He was essentially confronted with two independent offices: (1) Title III Research and Development office headed by Robert Ward and (2) a Statewide Testing Program or the Bureau of Assessment and Evaluation headed by Gordon Ascher. There was also "a ragtail mixture of other people and activities."[58] Gappert concluded that there may have been a lot going on in RPE but "there was no research, no planning and no evaluation." Consequently, Burke directed him to build a research, planning and evaluation capacity.[59] In Eight Steps to the 80's, the commissioner expounded on the role of RPE:

> The Division of Research, Planning and Evaluation will undertake activities that are more developmental than programmatic in nature. It will serve as the policy analysis and research centers of the Department, and will also assume a more constant role as the chief planning component for the Department as an organization. In order to meet the requirements of "T&E," the Department will expand the Educational Assessment Program (EAP) to endow it with the capacity to engage in analytical research with the variety of data which has been collected under EAP and other R,P,&E bureaus.[60]

As the last major element of the effort to restructure the SDOE, the Commissioner initiated the development of a management information system and the establishment of a modified management by objectives approach. This new system would be administered jointly by the RPE and Administration and Finance divisions. This reflected a recognition that the T&E planning process involved both fiscal and programmatic responsibilities. T&E represents a commitment to rational planning at the local level with a focus on needs assessment, goal articulation, and evaluation. The MBO system with its emphasis on objectives set at the state level was designed to complement the T&E requirements for rational planning imposed on local school districts.

Implementation of the Reorganization

The basic decisions discussed above -- the appointment of a Deputy Commissioner and the strengthening of his office; the appointment of an Assistant Commissioner for RPE with the purpose of restructuring the Division; the establishment of a modified MBO system; and the decision to decentralize much of the C&I function to the county offices -- were followed by the implementation of the reorganization. The implementation of the basic decisions involved in this reorganization will be briefly examined with a focus on: (1) the decentralization involved in the preparation for implementing T&E and (2) the restructuring of the RPE Division.

Preparing to Implement T&E: On June 22, 1975, nearly a year after his arrival in New Jersey, Commissioner Burke assembled his team of senior administrative staff and asked them "to concentrate with him upon the 'new role' and the 'new mission' for the Department of Education."[61] Much of the discussion at this meeting centered on the proper roles for the county offices and the Educational Improvement Centers and, specifically, their reporting and communicating relationships with the SDOE in Trenton.[62] There was little debate about the decision to decentralize the implementation of T&E. New Jersey is a strong local control state and decentralization would make the increased role of the state in education a bit more palatable to local control advocates. Within the department, there was a strong consensus over the decentralized T&E planning process despite the organizational tensions which dominated the SDOE. The county offices and the Educational Improvement Centers (EIC's) emerged as the centerpieces of the decentralized approach to T&E.

Shortly after his election as Governor in 1973, Brendan Byrne complained that the county offices were not doing anything and that unless the Commissioner of Education demonstrated that they had a meaningful role to play in the delivery of educational services, he would abolish them. It was in part a response to the governor's concern that the county offices were strengthened and given significant responsibility in the T&E planning process.

The department of education assumed primary responsibility for drafting the rules and regulations required to implement a thorough and efficient process of education.[63] The new role for the county offices was written into the code. In Eight Steps to the 80's, an important document reflecting the priorities and goals of the Commissioner, Burke pointed out that the "reorganized county offices are critical parts of the implementation ..."[64] Burke noted that the school approval mechanism was instrumental to the implementation of a statewide system for monitoring the local planning process. There are five steps involved in the planning process:

1. Local districts develop a planning process and undertake a needs assessment.
2. Local districts engage in a goal setting process.
3. The Commissioner reviews the educational program and program budget to determine its adequacy in light of locally assessed needs and locally developed goals.
4. The Commissioner designates a school approval team to make periodic visitations to local schools as part of the comprehensive evaluation.
5. The Commissioner analyzes the summative data gleaned from local and state assessments, budget reviews and audit reports. He then issues lists of approved, conditionally approved and unapproved schools.[65]

The department's leadership viewed the county offices as arms of the department. Burke emphasized that "the county superintendents and their staffs will act on behalf of the commissioner in monitoring local district efforts."[66]

Considerable effort was expended on the revitalization of the county offices so that they could perform the essential school approval function. The role of the county as an extension of the department became an important part of the effort to implement T&E. Much of the C&I function and personnel were decentralized to the county offices. Extensive training programs were held to equip the personnel with the requisite skills to review the goals, educational programs, and school budgets of local districts to insure that they met the T&E criteria spelled out in the legislation and the code.[67] There was no one decision point on this issue that can be readily identified. This aspect of the reorganization had evolved over a period of three years and continues to evolve.[68]

The ultimate objective of the new T&E planning process is improvement of the quality of education in all school districts in the state, especially urban districts. Once a district has been classified as either conditionally approved or disapproved, a process of remediation begins so that deficiencies can be rectified. The immediate goal is to achieve approval status which means that the district is making adequate progress toward its locally-determined goals. In order to help districts attain approved status, two additional Educational Improvement Centers were created as part of the reorganization. The four EICs are responsible for providing the technical assistance needed to ameliorate problems identified through the monitoring process.

Restructuring RPE: The relationship between C&I and RPE involved a number of critical organizational tensions. The tension between C&I and RPE continued despite the joint effort by Shine and Gappert to work more closely together. C&I was staffed by career specialists, while RPE was staffed by well-educated generalists. C&I and Shine were conservative while Gappert and RPE tended to be more innovative; and Shine was concerned with preserving the local control of schools while Gappert was more concerned with the problems of the cities.

When Shine left the department in the summer of 1975, the T&E planning and implementation responsibility was shifted to RPE. This was an important shift as it represented a substantial shift in power from the C&I division to the RPE division. With this shift, the manner in which RPE was restructured emerged as an important element in the organizational change which the reorganization imposed on the department.

After his arrival in December, 1974, Gappert established two immediate objectives in restructuring the division: (1) bring order to the division and (2) establish a research, planning and evaluation capacity. In his effort to organize the division, Gappert brought in a management consultant, Daniel Duncan, to meet with his staff and make recommendations regarding possible structural changes. Gappert also asked RPE staff to submit suggestions on how to reorganize the division. The advice from staff tended to inflate the role or responsibility of the particular staff member giving it. Gappert noted that "Duncan dissuaded me from coming up with the perfect design for the division." Instead, a decision was made "to unfreeze the autonomous units" that had developed within the division in the absence of departmental and divisional leadership. Staff were moved out of the existing autonomies. This had a disruptive effect as some staff were still able to function in a constructive manner and stayed while others floundered and eventually left the division. Gappert noted that he tried to maintain a fluid environment in the division, a situation which would allow him to mobilize resources where they were needed and as they were needed. However, it was not until after the school closing crisis that Gappert was able to organize the pieces and "crystallize the division."[69]

In a Report to the Commissioner of Education and the State Board, Gappert described the general theme in 1976-77 to be "one of reorganization and redirection to provide for a new capability in research, planning and evaluation." As part of the reorganization, the following specific steps were taken:

(1) establishment of the Bureau of Research and Assessment under the direction of William Mathis

(2) establishment of a Bureau of Evaluation under the direction of Thomas Corcoran

(3) establishment of a Bureau of Planning which was headed by William Volk who served as Acting Director

(4) reconstruction of the Office of the Assistant Commissioner as a Bureau of Management and Operations which was headed by Wallace Behan, Deputy Assistant Commissioner.[70]

The Report emphasized that the purpose of RPE was the provision of data in support of more rational decision-making. The division provides "data development and data utilization services to other divisions of the department, the Educational Improvement Centers, the County Offices and the local school districts."[71] This involved an effort to transform RPE from a division of well-educated generalists to data-oriented technical specialists who could respond to the needs of other divisions within the department as well as needs implicit in the new T&E planning process.

Finally, the Division of RPE assumed responsibility for the Operational Planning System, the purpose of which was "to ensure the thorough and efficient operation of the Department of Education -- by providing managers and staff at all levels with systematic organizational information, standards and procedures for assuring accountability and opportunities for organizational development."[72]

Impact: The T&E Planning Process

The RPE division was given the responsibility for the design and implementation of the T&E planning process in the summer of 1975. Just prior to Shine's departure from the department, Shine had begun to involve Gappert and his assistant, Sherwood Wilson, who had the responsibility for supervising the EICs, in the design process. Gappert was surprised to discover that beneath Shine's overall design, "there was really nothing for its implementation." Given Shine's belief that T&E, and the changes it implied, was not necessary, C&I

had not developed any clear T&E mission. Gappert concluded that Shine had provided "a good conceptual model -- but there was not much specified as to how we would actually do it." Shine had led the effort to draft the new Act and the administrative code[73] while Gappert tried to put the RPE house in order.[74] At this point, however, RPE assumed the responsibility for developing the guidelines which would be needed to direct the implementation of the T&E planning process.

William Volk became the successor to William Shine as Mr. T&E. Volk headed the Title IV Design Center which was given the responsibility for developing the T&E guidelines. In late 1975, the Design Center developed a document entitled Guidelines for Comprehensive Planning. In February, 1976, Gappert called a meeting for county supervisors, RPE staff, Norman Goldman from the New Jersey Education Association (N.J.E.A.) and Glenn Tecker from the School Boards Association (S.B.A.) for the purpose of reviewing and revising the planning document. It was concluded that there was too much jargon and that the district people would not understand it.[75] Based on that meeting, the RPE division concluded that there should not be any strict guidelines which would only serve to stifle the local planning process.

In March, 1976, RPE convened a T&E workship at the Educational Testing Service in Princeton attended by senior departmental and county staff. At that meeting, RPE presented a permissive planning model which left a considerable role in the planning process to local school districts. The reaction to their loosely structured model was mixed. Some felt that the department should play a larger, more prescriptive role. They reacted negatively with one person commenting, "Jesus Christ, is that all you've done."[76]

Ralph Lataille, the Deputy Commissioner, believed that a more prescriptive, comprehensive, regulatory model was needed. He tried to establish his prescriptive model and issued more precise directives in an effort to assert a larger departmental role in the T&E planning process. However, the injunctive order of the court issued on May 13, 1976 sidetracked Lataille's effort as the attention of departmental staff was diverted to the preparation of a response to the imposition of the order.[77]

Summary of Organizational Context[78]

Reorganization is an on-going process and often occurs in an organization when there is a change in leadership. Organizations are systems of tensions which involve fundamental disagreements among the organization's personnel. Under normal circumstances, these tensions are latent; however, during periods of change, these tensions surface and can critically influence the outcome of policy formulation within the organization.

Prior to the change in the department's leadership, a number of tensions surfaced. The court's mandate for a more specific definition of T&E engendered a contentious dialogue over departmental purposes. The C&I and RPE divisions disagreed over the role of the SDOE in the T&E planning process. The well-educated and talented, young professionals which former Commissioner Marburger hired to staff the RPE division were viewed with some skepticism by the older, career-oriented specialists who staffed the Division of Curriculum and Instruction. The new members of RPE saw themselves as change agents while Shine and the established members of the C&I staff were more traditional and concerned with protecting the status quo. And, finally, there was considerable tension within the department as various high-level officials from the SDOE sought the job of Education Commissioner.

Shortly after Fred G. Burke became Commissioner of Education, he made a series of reorganization decisions which involved significant organizational changes within the department. The structural changes were designed to alleviate the tensions which surfaced during this period of change. The reorganization involved a decentralization of Curriculum and Instruction functions to county offices and Educational Improvement Centers; the appointment of two new critical senior staff members -- Ralph Lataille as Deputy Commissioner and Gary Gappert as Assistant Commissioner of the Division of Research, Planning and Evaluation; the establishment of a modified MBO system; the reconstitution of the Division of Curriculum and Instruction into a Division of School Programs; the strengthening and expanding of the Deputy Commissioner's office; and a protracted restructuring of the RPE division under the leadership of Gary Gappert.

The period of change in New Jersey continued after Burke's arrival. The continuous process of reorganization served to alleviate much of the tension which had surfaced with the period of change.[79] The organizational changes involved in the reorganization reflect the goals and policy preferences of the new leadership. Many of the tensions which existed prior to the reorganization persisted while new tensions arose as a result of the organizational changes. There was renewed tension between the new and the old and between the insiders and outsiders. Units which were then in positions of power, the Deputy's office and the RPE Division, were viewed with some resentment by those who were in less favorable positions - the Division of School Programs (the old C&I Division). There was renewed disagreement over the role of the department in the T&E planning process. Deputy Commissioner Lataille favored a prescriptive, comprehensive planning model at the state level while Assistant Commissioner Gappert argued for a permissive model which implied a greater role for local school districts. Finally, as the reorganization evolved, new actors and groups began to compete for power and prestige within the SDOE, involving the recently strengthened deputy commissioner's office and the newly restructured RPE division.

The historical and organizational context specific to the educational decision process in New Jersey was one of turmoil and stress which involved changing deadlines imposed by the court; an intense dialogue over the goals of education and specifically the role of the state in the effort to realize those goals; a political battle over the need to raise an uncertain amount of state revenue; and changes in the educational bureaucracy as the department of education prepared to implement a system of education which remained in a constant state of evolution.

The crisis in public education involved severe stress as the educational organizations attempted to fashion an acceptable response to the Robinson mandate while the funds needed to execute the new program remained uncertain. The fiscal crisis was a function of two concerns: (1) the need to raise additional state revenue during a period of economic recession and (2) the pressure to equalize school financing by relying less on the local property tax in a state which is locally dominated.

This chapter outlined the efforts of state policy-makers to develop policy responses to the demands for educational and fiscal reform. The policy process was one of considerable uncertainty as a result of the legislature's unwillingness to adopt a statewide income tax and a commitment by the N.J. Supreme Court and the Governor to force legislative action. As this institutional dynamic played itself out, the delivery of educational services hung in the balance. Educators were responsible for the continued operation of the schools; however, the educational program was in an emerging state as the T&E process developed. Moreover, the level of funding was problematic. Consequently, educators were forced into a reactive mode, often trying to anticipate actions by either the court, the legislature, or the governor.

In September, 1975, the legislature provided the statutory authority for the new educational system when it adopted the Public Education Act (laws of 1975, Chapter 212). This only served to exacerbate the uncertainty felt by educators. They now had a legislative mandate to implement a new educational program in July, 1976. However, the legislature had failed to provide the funding needed to make the new program a reality. Given the history of broad-based opposition to increased taxation in the state legislature, this was a very real concern, one which educators had to take most seriously. How could educators begin to implement a new educational program which would cost over $300 million when the legislature did not give them the funding to do so? This question plagued educators in the SDOE as they prepared to implement T&E.

The demands for change associated with the pressure for fiscal and educational reform were manifest in the SDOE through the process of reorganization initiated by a new commissioner of education. The preparation for the implementation of T&E was inhibited by organizational tensions and changes within the department. The organizational ambiguity within the SDOE and the environmental turbulence described in the discussion of the historical context contributed to a stressful context for the educational decisions which will be examined in Capter IV.

The period following passage of the Education Act in September, 1975, through the adoption of the income tax on July 8, 1976 was a period of turmoil. Educators attempted to perform their operating responsibilities and respond to the changing demands which surfaced while the state policy-makers tried to respond to the educational and fiscal requirements of the Robinson decision. Chapter IV is an examination of the education decision process during this period within the context described in this chapter.

III

FOOTNOTES

[1] Richard Lehne, The Quest for Justice: The Politics of School Finance Reform (New York: Longman, 1978): 73.

[2] See James A. Robinson, The Concept of Crisis in Decision-Making (Washington, DC: National Institute of Social and Behavioral Science, 1962) and idem., "Crisis," International Encyclopedia of the Social Science Vol. 3 (The MacMillan Co. and the Free Press, 1968).

[3] 1875 Amendment to Article IV, Section 7, Clause 6 of 1844 New Jersey Constitution.

[4] Lehne, op. cit., 102.

[5] See "Report on Defining a Thorough and Efficient System of New Jersey Public Schools," New Jersey Education 8,4 (April, 1974): 1.

[6] Lehne, op. cit., 95.

[7] Interview with William Brooks, Assistant Deputy Commissioner, N.J. Department of Education on October 4, 1977. Brooks emphasized that although many outside the department construed the document to be a formal proposal of revisions in the administrative code, it was merely a dream document.

[8] Lehne, op. cit., 71.

[9] Ibid.

[10] The Joint Education Committee held the following public hearings on the "Thorough and Efficient" System of Free Public Schools: May 14, 1974 in Trenton, N.J.; June 5, 1974 in Haledon, New Jersey; June 20, 1974 in Trenton, N.J. The committee considered two bills, SB 1256 and AB 1863.

[11] Harvey A. Averch, et. al., How Effective is Schooling? Prepared for the Presidents Commission on School Finance (Santa Monica, Cal.: RAND, 1972): x.

[12] 62 N.J. at

[13] Lehne, op. cit., 71.

[14] Ibid., 96. See "Report of the Joint Education Committee," (June 13, 1974): 3-4; and William A. Shine and Susan Kinsey, "Creativity of the School and School Finance Reform: The New Jersey Experience," (Trenton, N.J.: The N.J. Department of Education, 1974).

[15] Lehne, op. cit., 96.

[16] James Coleman, "The Concept of Equal Educational Opportunity," *Harvard Educational Review* 38 (Winter, 1968): 22.

[17] "Issues in Defining Thorough and Efficient Education: The 'Input,' 'Output,' and 'Process' Approach" in *Materials and Activities* (Trenton, N.J.: State Board of Education, 1975): 14.

[18] *Primer on T&E* (Trenton, N.J.: Department of Education, March, 1976): 7-11.

[19] Lehne, op. cit., 143.

[20] "Report of the Joint Education Committee" (June 13, 1974): 5.

[21] 67 N.J. at 37. Quoted in Lehne, op. cit., 135.

[22] Lehne, op. cit., 135.

[23] Ibid.

[24] Ibid.

[25] Laws of 1975, Chapter 212.

[26] Seventh Annual Report, Economic Policy Council and Office of Economic Policy, New Jersey Department of the Treasury, 1975: 16 and 47.

[27] Sidney Glaser, "New Jersey's Personal Income Tax," Presentation before the Income Tax Section of the National Association of Tax Administrators, in Williamsburg Virginia, May 31, 1977.

[28] Ibid., 2.

[29] Ibid.

[30] 62 N.J. at 473 (1973).

[31] Lehne, op. cit., 103.

[32] *The Trenton Times*, October 5, 1973. Quoted in Lehne, op. cit., 103.

[33] Lehne, op. cit., 114.

[34] "Proposed Education Reform: Property Tax Relief Program" Byrne Administration Task Force, I (May, 1974): 1-13.

[35] Public Hearings held by the Joint Committee on State School Financing, May 23, 1974 in Hackensack, N.J.; May 24, 1974 in Toms River, N.J.; and May 28, 1974 in Lincroft, N.J.

[36] Raymond Garramone, "Memorandum to the Legislature," (mimeo undated): 2. Cited in Lehne, op. cit., 20.

[37] Lehne, op. cit., 75.

[38] Glaser, op. cit., 3.

[39] Ibid., 3-4.

[40] Frederick C. Mosher, Governmental Reorganizations: Cases and Commentaries (New York: ICP Inc., Bobbs-Merrill, 1967): 502.

[41] The conception of organizations as systems of tension is grounded in the equilibrium theory of organizations. See Kurt Lewin, "Frontiers in Group Dynamics," Human Relations I (June, 1947) and (November, 1947) and Chester Barnard, Functions of the Executive (Cambridge: Harvard University Press, 1938).

[42] Mosher, op. cit., 488.

[43] For a presentation of the elements of the T&E process see T&E: A Primer for School Improvement in New Jersey (Trenton, New Jersey: Department of Education, March 1976).

[44] Mosher, op. cit., 488.

[45] See Kenneth Pack, "The New Jersey Department of Education: The Marburger Years," (Unpublished Doctoral Dissertation: Rutgers University, 1974): 102.

[46] Ibid., 104.

[47] Interview with Dr. Ernie Reoch, Executive Secretary, Joint Committee on Public Schools, October 11, 1977.

[48] Interview with a senior staff member, Department of Education who requested anonymity.

[49] Interview with Fred G. Burke, Commissioner of Education, October, 13, 1977.

[50] Commissioner Burke does not believe that the state needs twenty-one counties. He suggests the "three or four" would be more efficient from an administrator's perspective.

[51] Two EIC's existed prior to the reorganization. Burke made a decision to create two more centers and to more clearly define their responsibilities.

[52] Interview with staff member from Department of Education who requested anonymity.

[53] Interview with staff member from Department of Education who requested anonymity.

[54] Interview with Commissioner Burke, October 13, 1977.

[55] The Division of Curriculum and Instruction was reconstituted as the Division of School Programs and given the responsibility for the direct supervision of the four regional Educational Improvement Centers.

[56] Interview with Commissioner Burke, October 13, 1977.

[57] Interview with staff member from Department of Education who requested anonymity.

[58] Interview with Dr. Gary Gappert, Assistant Commissioner, Division of Research, Planning and Evaluation, October 5, 1977.

[59] Ibid.

[60] Burke, "Eight Steps to the 80's."

[61] The meeting was conducted by a team of consultants who were hired under the Maryland 505 Project: Competency-Based Staff Development. See John Casey, "Report: A Review of Current Goals, Issues, and Problems with Recommendations," (September, 1975). The following individuals attended the staff meeting: Fred G. Burke, Commissioner; Ralph Lataille, Deputy Commissioner; Gary Gappert, Assistant Commissioner; Harold Bills, Acting Assistant Commissioner; William Wenzel, Acting Asssistant Commissioner; Catherine Havrilevsky, Director of Field Services; Daniel Ringelheim, Deputy Assistant Commissioner; William Brooks, Assistant Deputy Commissioner; Bernard Steinfelt, Deputy Assistant Commissioner; Sherwood Wilson, Deputy Assistant Commissioner; John Casey, Assistant Director, State Education Research; Consultants: Donald Levine, Columbia University; Brook Derr, Naval Postgraduate School; and Richard Anderson, Columbia University.

[62] Three organizational models were presented and discussed. See Casey Report cited above.

[63] See the three versions of the T&E Primer published by the New Jersey Department of Education.

[64] Burke, "Eight Steps to the 80's."

[65] Ibid.

[66] Ibid.

[67] Ibid.

[68] SB 978 which defines the new functions and responsibilities of the county offices is presently before the Governor awaiting his signature. The county offices are functioning in their new capacities without any clear statutory authorization.

[69] Interview with Dr. Gary Gappert, October 5, 1977.

[70] Report to the Commissioner of Education and the State Board submitted by the Division of Research, Planning and Evaluation, (May, 1977): 2.

[71] Ibid., 1.

[72] Ibid., 6 and 7.

[73] The administrative code was adopted in January, 1976.

[74] Interview with Dr. Gary Gappert, October 5, 1977.

[75] Ibid.

[76] Interview with staff member, Department of Education. Permission to attribute this information is being sought.

[77] Interview with staff member of the Department of Education. Permission to attribute this information is being sought.

[78] It is not the purpose of this study to evaluate the departmental reorganization. However, there have been a number of studies which have critically examined the reorganization. See Gilbert Reilley, "An Organizational Analysis of Decentralization in the New Jersey Educational System" (Philadelphia, Pa.: Research for Better Schools, May, 1977), and Ben Josephson, "Study Report: Patterns of T&E Implementation," (New York: Lexington Associates, July, 1977).

[79] See Reilley and Josephson Reports.

IV

EDUCATIONAL DECISION-MAKING UNDER UNCERTAINTY

The educational decision process was constrained by a crisis in public education or an ambiguity over educational goals and objectives; by a fiscal crisis or a search for a new source of state revenue; and by organizational ambiguity within the SDOE as it prepared to implement an emerging "thorough and efficient" (T&E) system of education. Three decision experiences will serve as vehicles for exploring the process of educational decision-making in this turbulent context. The effort to give meaning to the T&E clause had preoccupied educators since 1973. The issue of whether or not to include statewide minimum standards in the basic skills as part of T&E prolonged the debate over educational goals and confronted educators with the question of how much educational change the reformed educational system would involve. The stress associated with the uncertainty over the income tax pervaded the policy-making process. It was seriously manifest in the ambiguity over state aid which resulted in a disruption of the educational budgetary process for the school year 1976-1977. The stress was most severely felt by educators when the supreme court issued its injunctive order on May 13, 1976 which resulted in a dramatic closing of the schools in July, 1976.

STATEWIDE MINIMUM STANDARDS

Statewide minimum standards in the basic skills was a complex issue which involved a strange supporting coalition. Urban interest groups concerned with the quality of educational services in the city placed the item on the state's agenda, while Republican conservative suburbanites concerned with fiscal accountability provided the critical support which resulted in the adoption of minimum standards by the state legislature. New Jersey citizens concerned over recent increases in public school spending and relatively low student performance echoed the claim that standards were needed:

> Declining student scores on standardized examinations had shaken public confidence in educators. Citizens were reading and reacting to newspaper stories quoting academic researchers as saying that the features of modern school programs did not contribute to levels of student performance. "Basic skills" became a rallying cry for many New Jerseyans who believed that permissive schools were getting too far from standards, discipline, and the "three R's"...Public schools were not thought to be teaching students essential skills as well as they once did, and, most ominously for educators, it was the better-educated, better-informed, more attentive citizens who were now the most critical.[1]

Educators were confronted with a skeptical public. Despite the resistance of the educational establishment, statewide standards became a reality when Brendan Byrne signed the bill into law in September, 1976.

Educational Change in New Jersey

Educational change is an ambiguous concept.[2] With reference to the New Jersey experience, there are many who argue that the process of defining "T&E" and the adoption of the process approach to defining equal educational opportunity resulted in significant educational change in New Jersey. Certainly, for the first time, some local school districts have been required to get involved in planning activities designed to lead to improved education.[3] The state department of education has assumed new responsibilities which include monitoring the new locally-based T&E planning process.

On the other hand, there are policy analysts who are skeptical about the claim that the T&E experience has produced changes in the educational delivery system. In reference to the new T&E planning process, Jerome Murphy recently concluded:

> And finally, looking over the administrative code, the proposed process of getting every school district to go through a long, horrendous procedure of establishing goals and objectives strikes me as a waste of time and resources unless the goal is one of two things: to provide a symbolic bow to the improvement of schools, or to get people in the short run to feel better about their schools. But in the long run, one must wonder. There is very little evidence that this whole process has anything to do with decisions about the allocation of resources. ... My impression is that while the goal setting goes on in one place, the real decisions about education are being made somewhere else.[4]

There is no doubt that education has experienced some basic changes in New Jersey. However, whether the organizational changes discussed in the previous chapter and the systemic changes associated with the T&E planning process amount to fundamental educational change is open to debate which will continue as the reformed system is implemented and evaluated.

A discussion of educational change should include a consideration of the changes in the educational services which the students actually receive. The supreme court was concerned primarily with the quality of education children were receiving. In April, 1973, Chief Justice Joseph Weintraub provided guidelines which amounted to an initial definition of "thorough and efficient," claiming that it must at least "embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market.[5] Implicit in this standard is the contention that students in all districts, rich or poor, are entitled under the state constitution to a "quality" education. Indeed, Harold J. Ruvoldt, Jr., attorney representing Robinson, concluded shortly after the supreme court decision that:

> The Robinson decision challenged the quality of public education and held the school financing system unconstitutional because it denied children access to a guaranteed level of educational opportunity. It was the inherent denial of quality education, not some inequitable tax burden, that compelled judicial intervention.[6]

Ruvoldt emphasized that the Court was unwilling to turn the decision on simple fiscal equity. In his opinion, this fact "coupled with its willingness to jump into the maze of educational quality should convince the reasonable man that it was educational quality that demanded change."[7] Any serious effort to address the intractable problems implicit in equal educational opportunity presents an opportunity to affect fundamental educational change. In New Jersey, educators were preoccupied with improving the quality of education in response to the opportunity presented by the supreme court.

The opportunity for educational change embodied in the process of defining T&E involved a debate over quality education. What is it? Indeed, how do you know if a particular system will prepare a child for his role in the labor market and as a citizen. This is a complex question, one which has gripped educational policy-makers and researchers for some time and one which will continue to do so.[8] Is quality related to input in terms of expenditures and other resources? To some extent, yes. Much of the school finance litigation is founded on this assumption, including the Robinson v. Cahill decision. However, it is also recognized that there are other factors which affect the learning experience including social class, peer influence and family integrity -- variables which are external to the school system.[9] The New Jersey Supreme Court recognized the need to compensate for these forces which are associated with low-income environments:

> Although we have dealth with the constitutional problem in terms of dollar input per pupil, we should not be understood to mean that the state may not recognize differences in area costs, or need for additional dollar input to equip classes of disadvantaged children for the educational opportunity.[10]

The New Jersey experience with educational change involved a debate over the nature of quality education and how to provide it for all school children in the state. Policy-makers recognized that there were significant differences in the quality of education received by students who lived in the wealthy suburbs and students who received their education in low-income urban school districts. In order to provide equal educational opportunity for all children, a process approach was written into the definition of thorough and efficient, primarily through the administrative code.[11]

Interest groups representing minorities from the urban school districts claimed that requiring all school districts to go through a planning process would not ensure students in urban districts a "quality" education. They argued strenuously that there was a need for an output component in the definition of thorough and efficient. There was no doubt that student performance and student achievement in the urban districts was significantly lower than student performance in the more wealthy districts. In their view, a planning process that is the same from one district to another is not sufficient. There is a need to assess performance in each district and in those districts where performance is low, a process of remediation should be initiated. Poor performance is a reflection of need and the allocation of resources and commitment should be limited to need. Moreover, the state, based on statewide assessment results, should establish a minimum level of pupil proficiency in reading and computational skills. These statewide standards would insure a level of quality which would be consistent with the court's mandate regarding equal educational opportunity.

The urban interest groups argued that the supreme court decisions and the Public Education Act of 1975 required statewide minimum standards. The administrative code written by the education community reflected a rejection of this view and provided for standards which would be locally determined. Consequently, the urban interest groups were forced to conduct an intense battle against the process approach.

Since this effort to include statewide minimum standards was resisted by the educational establishment, it took a separate piece of legislation to make statewide minimum standards a part of T&E.

Measuring performance of the educational system through statewide assessment and the imposition of statewide minimum standards provided an accountability mechanism which parents and many non-educational interest groups found attractive. This piece of legislation was debated during the period following the passage of the Public Education Act of 1975 through the school closing crisis in May, 1976, the same period in which the income tax was seriously contested. The revenue from the income tax had been promised to education. The increase in educational expenditures contributed to taxpayer concern for holding the educational system accountable. The statewide minimum standards legislation originated out of a concern over the quality of education in New Jersey and was perceived as a step in the direction of equal educational opportunity. It was resisted vehemently by the educational establishment especially the New Jersey Education Association and the SDOE. It became law not out of a pervasive concern for quality and equality but out of a concern for holding the educational system accountable, especially in light of the additional revenue education would receive from the income tax.

This section examines the policy dynamic surrounding the statewide minimum standards issue including an examination of the institutional response of the educational organizations to the opportunity for educational change. In order to understand this institutional response, a brief history of New Jersey's experience with statewide assessment is necessary.

Statewide Assessment in New Jersey

Statewide assessment is a relatively recent phenomenon which has caught the imagination of educational policy-makers in states across the nation.[12] It represents an attempt to better link the needs of school children with the allocation of resources.[13] Proponents of statewide assessment argue that it is inadequate to rely merely on socioeconomic and low-income data as an indicator of need. Statewide assessment is one example of the growing trend in policy decision-making to rely on objective data. However, there is a growing body of literature which identifies the limitations of the use of test data in educational policy-making.[14] Some analysts have argued that statewide assessment "figures significantly in the movement toward passage of statewide minimum standards in the early summer of 1976."[15]

Peter Skerry argues that statewide assessment and accountability programs of the 1970's are a legacy of two convergent trends of the 1960's: (1) the use of objective information to document the failure of urban schools and dramatize the educational needs of minority children (this was also used as a countermove to the increasing power and militancy of teacher unions) and, (2) the need to provide an accounting of social programs in response to the increasing demands of taxpayers.[16] Skerry defined statewide assessment as "a comprehensive effort to gather statewide information on the status of student progress towards desired goals and/or objectives for the purpose of educational decision-making."[17] He concluded that the New Jersey Education Assessment Program (NJEAP) did not provide data to inform specific policy decisions but did provide "background information on the status of education in the state that led to the enactment of statewide minimum standards."[18]

Unlike most states, the New Jersey Education Assessment Program was established by the commissioner of education rather than by legislative action.[19] Commissioner of Education, Carl Marburger viewed the role of the SDOE as proactive and change-oriented. He came to New Jersey "with a reputation of concern for the problems of urban education and the needs of minorities."[20] Marburger initiated the NJEAP in response to the trial court decision rendered by Judge Theodore I. Botter in Robinson v. Cahill in January, 1972. In describing the program, Marburger observed:

> We in education are being called upon to verify that the schooling provided for our students is effective and meaningful, and to demonstrate that the investment of time and financial resources results in quality education. Increasingly, the Governor and the Legislature are seeking such data as a basis for decisions concerning education. Clearly, New Jersey is faced with a mandate, exemplified by recent decisions and recommendations of the courts and the Governor's Tax Policy Committee, to develop an appropriate assessment program for our educational system in New Jersey. We not only need to know more precisely what our educational problems are across the State, but also we need insight into how to improve educational conditions and how to identify outstanding programs that could be applied in other school districts. As a means of answering concerns such as these, the Educational Assessment Program has been developed by the State Department of Education (New Jersey State Department of Education, 1972 a).[21]

The NJEAP was coordinated with the "Our Schools" Program which involved an effort to establish statewide educational goals.[22] The establishment of statewide goals and objectives was viewed as fundamental to the assessment program. This coordination between goals and assessment distinguished the NJEAP from other statewide testing programs.[23] The purpose of the NJEAP was "to provide information useful to the development of programs and thrusts designed to move education closer to the attainment of state goals."[24] The goals were established as part of the Our Schools project and were adopted by the State Board of Education on April 12, 1972. They were the product of a two year effort involving the participation of 6000 people, including students, local school board members, teachers, parents, and business and community leaders. The goals included eleven outcome goals which pertain to individual student behaviors or attitudes desired as a result, at least in part, of formal educational experience and nine process goals which described how schools should function to provide meaningful education in New Jersey.[25] (For a listing of these goals, See Appendix II).

In his examination of the NJEAP, Peter Skerry expressed surprise at the lack of generalized conflict which surrounded its initiation. He pointed out that with the exception of two combatants no one in New Jersey had considered the EAP worth a fight.[26] The two combatants were the SDOE who obviously supported it and the New Jersey Education Association (NJEA) who perceived the NJEAP as an explicit "anti-teacher" tactic.

In Chappell v. Commissioner of Education, the NJEA sought to enjoin the public release of the NJEAP results for 1972-1973.[27] This court action provided a forum for NJEA criticism of the assessment program. They argued that the tests were not representative of the curricula taught in New Jersey schools; that the results would be used to make invidious comparisons among school districts as well as among students; that the "tests were inadequate to measure the complexities of the educational process and that their narrow focus on cognitive outcomes ignored vital non-cognitive aspects of the educational process; that assessment would lead to a narrow 'teacher-to-the-test' attitude among teachers; and, finally, that statewide assessment posed a threat to the local control of schools."[28] Their major concern centered around a basic fear of tests. The NJEA was concerned that teachers would be evaluated based upon student performance.[29] This fear of tests and the concern over teacher evaluation were also important factors in the NJEA opposition to statewide minimum standards four years later.

Other major educational interest groups did not take a position on the NJEAP issue. The N.J. School Boards Association remained aloof from the controversy noting that their membership generally favored use of assessment data to evaluate teachers. The N.J. Association of School Administrators, the N.J. Association of Secondary Principals, and the PTA did not formulate positions. The legislature was unconcerned with the NJEAP having not played a role in its initiation. However, in 1976, Skerry emphasized that "with the emergence of the minimum standards issue, legislators have become increasingly aware of the EAP which has been suggested as the logical yardstick to use in establishing the minimum."[30]

Defining T&E: Statewide Minimum Standards?

The "thorough and efficient" clause was defined largely during the period from late 1973 through passage of the Public Education Act in September, 1975. The primary architect was William Shine, the "T&E moderator" who was relatively conservative, committed to local control of education, and not very sympathetic to the needs of urban districts as articulated by urban interest groups. Commissioner Marburger left the department in 1973 largely as a result of opposition by the NJEA to his confirmation for another term. During the hiatus under Acting Commissioner Kilpatrick, Shine and his values and positions on various issues related to T&E dominated. The process approach to quality education was written into the Act and the administrative code with considerable consensus among actors in the Joint Education Committee, the SDOE, and the major educational interest groups including the NJEA and the School Boards Association. The movement to establish statewide minimum standards ran headlong into an interest group configuration which had congealed around the process approach to equal educational opportunity.

The process of defining the thorough and efficient clause was largely controlled by the SDOE through the process of drafting the administrative code. It became clear early in the debate that a process approach to quality education would be the backbone of the new system. The issue of statewide minimum standards was raised early in the Robinson litigation. A number of amicus curiae briefs filed in the Robinson litigation expressed the need for statewide minimum standards of pupil proficiency in the basic skills. It was not until the assembly passed A1736 (Statewide Minimum Standards Bill) in March, 1976, that the issue of statewide standards really caught the public's attention and became front page news.[31] Prior to A1736 the debate was essentially limited to a handful of individuals in the SDOE, the State Board of Education, the Chief State School officer, the Joint Committee on the Public Schools, and two urban interest groups: the Education Law Center at Rutgers University and the New Jersey Education Reform Project which is part of the Newark Urban Coalition.

The Early Debate: The Quest for Quality and Equal Educational Opportunity The New Jersey Supreme Court wanted all children in the state to have an equal opportunity to receive a quality education. It was this concern of the supreme court which set the stage for an intense debate over quality education. The school finance issue evolved into a debate over minimal competency requirements.[32] The results from the Educational Assessment Program had demonstrated that student performance in the suburban school districts was considerably better than performance in the urban schools. This performance disparity obviously fed the movement to establish minimum standards in New Jersey.

The proponents of statewide minimum standards recognized this performance disparity and argued that urban schools had much greater needs than schools in other parts of the state. In their view, this performance disparity was not the product of lower expenditures in city schools; in fact, urban districts and non-urban districts spent approximately the same amounts per pupil.[33] The problem was essentially that "there are much higher concentrations of children who are harder to educate in urban areas than in the state as a whole. Cities had higher proportions of handicapped students, Spanish speaking students, emotionally disturbed students, and economically disadvantaged students.[34] Moreover, the tax effort in urban districts was considerably higher than other school districts in the state because of the problems associated with municipal overburden. Urban districts could not afford to increase local taxes to support the special programming which was needed to meet the needs of "harder to educate" children. Urban interest groups argued that a certain portion of state aid should be tied to performance on statewide testing so that districts which performed poorly could receive a greater share of state aid.[35]

Based on his study of the NJEAP, Skerry concluded that "the most salient political feature of minorities in New Jersey is their lack of statewide organization." The Education Law Center (ELC) and the New Jersey Education Reform Project (NJERP) were the only active statewide public interest groups directly concerned with the needs and problems confronting residents of the cities in the state. Consequently, they led the fight to ensure that some of the energy expended on T&E would be focused on the cities. The original tactic of the ELC was to pursue further litigation.[36] The ACLU brief, which they helped prepare, presented arguments on behalf of statewide standards. However, in their view, the supreme court "completely ducked the issue," and when the opportunity to work through the legislature arose, the ELC pursued statewide standards through the legislative arena.[37]

Much of the debate on minimum standards centered around the meaning of the following wording contained in the Public Education Act of 1975.

> For the purpose of evaluating the thoroughness and efficiency of all the public schools of the State, the commissioner, with the approval of the State board and after review by the Joint Committee on the Public Schools, shall develop and administer a uniform, Statewide system for evaluating the performance of each school. Such a system shall be based in part on annual testing for achievement in basic skill areas, and in part on such other means as the commissioner deems proper in order to (a) determine pupil status and needs, (b) ensure pupil progress, and (c) assess the degree to which the educational objectives have been achieved.[38] (Emphasis added)

Through its proposed regulations, the department of education interpreted these words to mean that local school districts would establish their own performance standards. The urban interest groups argued vehemently that it clearly required the uniform application of standards which would be established at the state level. Paul J. Tractenberg, Director of the Education Law Center, argued that the supreme court decision of April, 1973, required statewide minimum standards. William Shine, the "T&E Moderator" from the department of education and the principle architect of the process approach and the proposed T&E regulations, advanced the view that there were all kinds of dreadful potentials involved in statewide minimum standards.[39]

The administrative code was constructed upon the view that an effective educational system is more likely to result from an educational process which relies on local initiative rather than directives issued from a distant state bureaucracy. Given the ambiguity over the input and output approaches to equal educational opportunity, Shine emphasized that there was no rational, scientific knowledge upon which to construct the new system of education. Instead, Shine suggested that you have to rely on enlightened opinion.[40] The T&E system should reflect the will of the people. The effort to define T&E was, in the words of the person which lead the effort, "an effort to discover consensus."[41] The definitional process was of necessity one of broad-based involvement, a continuous process of consensus refinement. The supreme court recognized this, according to Shine, when they assessed the T&E definition contained in the new legislation as hortatory and inchoate. Shine interpreted this to mean that education is in the process of becoming. He argued that the process approach is essential in that "education is always changing responding to the needs of the generation which is being educated." The process approach is potentially more responsive to changing needs.[42]

A report of the N.J. Education Reform Project summarized the advantages of the process approach:

> The underlying view of the process approach is that in the struggle to move from general goals to specific objectives, a learning process will take place whereby parents, teachers and students, will understand each others personal aspirations as well as the practical constraints of human ability and limited resources. The final result should be a reasonable set of goals, objectives and standards, which (and this is most important) has the support of all the participants, because they created it and understand how and why it was arrived at. The culmination of such a process is the active involvement of teachers and parents and taxpayers and children and administrators in nurturing the development of their own creation.[43]

> Thoughtful individuals must concur with the philosophy which underlies the Administrative Code. Long run improvement in educational systems is most likely to flourish in a process oriented system. The mandates of a centralized bureaucracy are less likely to be understood, appreciated, supported or implemented than local decisions, collectively arrived at.[44]

The same report discussed the limitations of the process approach. It essentially involved a belief that urban school districts did not have the capacity to meet the requirements of the process. In their opinion, it required a great deal of time, money, and skilled and committed people -- a committed superintendent, skilled administrators, a supportive board and supportive and involved parents.[45] This kind of commitment did not exist in all 600 hundred districts of the state, especially urban school districts which had the most serious performance problems. The urban interest groups argued that statewide standards were needed to compel urban districts, with the help of the state, to work to bring performance up to a clearly specified level. Without such a state role, performance in urban districts would continue at a low level.

The early debate over minimum standards revolved around the department's interpretation of S1516 (which became the Public Education Act of 1975) to mean that local districts would establish their own standards of performance. Much of the debate involved the Education Law Center and the N.J. Education Reform Project arguing for statewide standards claiming that both the court decisions and the new act required it and representatives from the department defending their preference for locally-based standards.

The Joint Committee on the Public Schools was the major forum for this dialogue. This committee received drafts of the proposed regulations from the department and served as an arena where legislators and interest groups reacted to the drafts. Paul Tractenberg, of the Education Law Center, and Larry Rubin of the N.J. Education Reform Project,continually stressed the need to focus on outcome as a measure of student performance.[46] They argued vehemently that the state should establish statewide standards in light of the poor performance of students in urban districts and the fiscal constraints confronting urban districts. They criticized the department's proposed regulations, suggesting that they "would permit, and perhaps require, local districts to excuse and justify poor performance of some students by reference to non-school variables."[47] Tractenberg argued that the SDOE was constantly "responding to and rebutting our input" and that the department assumed an advocacy position for locally-determined standards.[48]

The SDOE claimed that statewide standards were not technically feasible or desirable. The department asserted that their position was consistent with the intent of the legislation (S 1516) as well as with the decisions of the supreme court. The department's position reflected a commitment to the process approach to defining equal educational opportunity and rejected the arguments offered by the urban groups which reflected an "outcome" orientation. The urban groups emphasized that performance in the urban districts could be improved with remedial help. The department concluded that student performance would not improve despite increased expenditures and remedial efforts.

In July, 1975, the Commissioner of Education wrote that the Department's intent was "not to excuse society or justify the schools' failure to educate but rather, to recognize that social class correlates with educational achievement." Commissioner Burke went on to cite Dr. Milton Schwebel:

> Economic disadvantage gives rise to a host of other disadvantages, including even illness and premature death. The fact that non-whites experience them to a greater degree is not because of race per se but because they have been subject to membership in the lowest social class ... Deprived children start life at a disadvantage, social handicaps having already been converted to organic defects even at birth. From then on the gap usually widens with each passing day, sometimes because of the greater incidence of injury, and generally because of inadequate opportunity for intellectual stimulation and for the variety of experience that is prerequisite to concept formation and scholastic success.[49]

The commissioner emphasized that socio-economic differences exist, they result in different pupil performance and "this fact must be recognized in intelligent educational planning."[50] In opposing statewide standards, the department was "protecting disadvantaged students from invalid comparison" as well as "protecting them from failure to gain a high school diploma."[51]

Many smaller minority organizations supported the efforts of the Education Law Center and the New Jersey Education Reform Project.[52] Tractenberg noted that the urban interest groups did not develop a comprehensive strategy to mobilize support for statewide minimum standards. He claimed that the court decisions and the 1975 Act "provided all the ammunition you needed,"[53] while other urban interest group leaders disagreed claiming that there was a strategy and that it was directed at the State Board of Education.[54] Mrs. Ruth Mancuso, President of the State Board, supported the department's position opposing statewide standards. However, Daniel Gaby, the Vice President of the State Board, found the arguments of the urban groups to be persuasive and worked actively on behalf of statewide standards.

Gaby was appointed to the State Board of Education in early 1975 by Governor Byrne. He was active in the Newark Chamber of Commerce and came to his position on the board with a basic commitment to urban education. In 1975, membership on the board was down from thirteen to seven, with six members strongly lined up with educators in support of the process approach and locally-determined standards. Gaby was alone in his support of statewide standards and was suspicious of information which the SDOE staff was providing the state board in support of the process approach. Given the opposition on the state board to statewide standards, Gaby tried to move the consideration of the standards issue out of the educational arena to a more public forum.[55]

On November 20, 1975, the State Board established a Task Force on Competency Indicators and Standards in recognition "that a major study of competency indicators and standards including but not limited to basic communications and computational skills is required to determine the applicability of competency indicators and standards in New Jersey."[56] The task force was a compromise between Gaby and the forces for statewide standards and the education forces on the state board. Ruth Mancuso, President of the State Board, wanted a unanimous vote on the T&E regulations which required locally determined standards. Gaby reluctantly gave his support to the regulations with the condition that a high level commission be established to study the desirability and the implementation of statewide minimum standards.[57] The charge of the task force was open-ended. Membership included at least two early supporters of statewide standards: Larry Rubin from the N.J. Education Reform Project and Robert Woodford from the N.J. Manufacturer's Association.

In late November, 1975, the urban groups picked up two very important allies in support of statewide minimum standards. On November 14, 1975, the New Jersey Manufacturer's Association issued a statement calling for the development of statewide minimum competency standards:

> The problem of functional illiteracy, the enrollment of a large number of New Jersey's college freshman in remedial college courses, and the army of unskilled individuals on unemployment rolls are unmistakable signs of failure. Unless basic skills are mastered early in a child's schooling, progress through advanced subject matters is discouraged and the process of schooling becomes one of defeat and humiliation. Schooling which fails to produce mastery of the basic skills fails to produce individuals who can compete in the labor market or function successfully as citizens.[58]

On November 26, it was reported that Ralph Dungan, New Jersey's Chancellor of Higher Education, was seeking a new admissions policy "which would limit admission to students who are able to demonstrate minimum competency in reading and mathematics."[59] This effort was construed as "a slap at the state Board of Education for its failure to include minimum competency standards in the public schools ... as part of ... the thorough and efficient legislation."[60]

The administrative code requiring that standards be developed at the local level was adopted by the State Board of Education in January/February, 1976. An internal departmental memo to Commissioner Burke on recommended procedures regarding state monitoring of local districts' minimum pupil levels of proficiency in the basic skills created considerable concern among the urban interest groups. The memo seemed to imply a linkage between a district's resources and the standards which would be locally established.[61] The urban groups argued that this would result in a performance gap between urban and suburban youth which would be nearly impossible to overcome.

The NJERP responded to the Commissioner of Education expressing their concern:

> It is difficult to understand how the writers of the November 5 memorandum can suggest that their proposal is an "accountability model which has, as its primary focus, educational planning for school districts based on the needs of pupils," when at the same time it suggests that standards be reasonable in relation to "school resources" with the knowledge that school resources vary greatly from district to district as a function of the property wealth of those districts. The purpose of establishing minimum standards is not as the memorandum suggests, to "shift to the school system the blame for society's inaction on a host of economic and social reforms." The purpose is to establish educational practices which do in fact meet the "needs of pupils." It is clear that the establishment of local minimum standards is in no way directed towards the "needs of pupils" but is predicated on the assumption of continued inequality of local school resources, an assumption which is inconsistent with the New Jersey Constitution.[62]

Opposition of Education Organizations: The attempt to include statewide minimum standards in the emerging definition of the state's education clause by the urban interest groups was resisted by the entire educational coalition. Unlike the debate over statewide assessment initiated under Marburger, which was characterized by a lack of generalized conflict, the debate over statewide standards was characterized by considerable conflict involving all elements of the state's political process. Whereas the debate over assessment largely involved a debate within the educational decision-making structure between the SDOE and the NJEA, the debate over minimum standards was considerably more generalized or politicized with the educational groups united in their opposition to statewide standards.

The SDOE, which was a strong advocate of statewide assessment, now joined forces with the NJEA in opposition to statewide minimum standards. Given the goals of the NJEAP in New Jersey, one would expect that a supporter of that program would also support statewide minimum standards. Why, then, did the department so vehemently oppose statewide standards?

In addition to the substantive reasons articulated in the above discussion, there were environmental factors which were relevant. First, the department leadership had changed significantly with Fred G. Burke becoming Commissioner of Education. Second, Carl Marburger, the Commissioner of Education at the time of the initiation of statewide assessment, was not confirmed for a second term as a result of the opposition of the teachers (NJEA). Third, upon his arrival, the new commissioner was aware of the tension and strain which characterized the relationship between the NJEA and the department as a result of their fight over the NJEAP and the reappointment of Marburger. Consequently, it seemed that the NJEA and the SDOE were inclined to joining forces. With regard to statewide minimum standards, Skerry argued that "this agreement between the state department and the NJEA represents a more general realignment of political forces that began with the ouster of Commissioner Marburger in the Fall of 1972, due primarily to the efforts of the NJEA."[63]

In 1974, the new leadership in the department was confronted with a fragmented education coalition. The relationship between NJEA and SDOE was still tense. The School Boards Association and the NJEA were in constant opposition, basically over labor issues. Several observers noted that the new commissioner seemed intent on uniting this fragmented coalition. The debate over T&E and the emerging consensus over the process approach was a first step in reuniting the education community. It has been suggested that statewide minimum standards may have provided an issue around which the education organizations could reinforce the urge to coalesce which had begun with the agreement on the process approach.

The educational bureaucracy was the primary opponent to statewide standards. This is surprising in that Governor Byrne had made it known early that he supported statewide standards. The Governor's office viewed statewide standards as desirable both politically and educationally. Despite this support from the man who appointed the new commissioner, the commissioner of education continued to oppose statewide standards right up until the end of the debate. The department's position appears to have been a major shift in policy. The Commissioner involved his senior staff and the testing people in formulating the department's position. Their position was premised on the view that education is and should be an individualized experience. Statewide standards ran contrary to this fundamental belief. In the department, it was recognized that "opposing minimum standards was politically unwise; however, professionally, statewide standards was not the way to go."[64]

The other educational organizations also opposed statewide standards. The opposition of the teachers to statewide standards involved many of the same concerns which it expressed so vehemently over statewide assessment, especially the fear that student performance would be used to evaluate teachers. The NJEA also offered a number of other reasons: First, there are differences in student backgrounds which must be recognized. In some districts, especially suburban districts, setting minimum standards could result in "inspiring children less," that is, there could very well be a "levelling-down effect" on student achievement. Second, if you talk to most teachers who are involved with culturally deprived children, they emphasize that the first thing that must be accomplished is not instruction in basic skills but rather overcoming the "spirit of hopelessness" which is the dominant attitude among these children. Third, it is emphasized that T&E represents an attempt to individualize the learning process, that is, work with the child in terms of his own particular needs and goals. Statewide minimum standards and basic skills are inconsistent with this central thrust. Fourth, teachers should not be evaluated based upon student performance because there are too many exogenous and unmeasurable factors which influence student performance. It would be unfair to judge teachers on student performance when they are only one factor which contributes to student performance. And, finally, there is a high mobility factor in low income school districts which makes pre and post testing nearly impossible.[65]

The School Boards Association did not voice significant opposition and was the first educational organization to support statewide standards.

The N.J. Association of School Administrators came out strongly against minimum standards. James Moran, Executive Director, emphasized that he was concerned with all the talk about "minimums." Moran emphasized the need to "optimize" the educational process and argued that rather than talking about minimums perhaps there should be some talk about "maximums." Moran noted that his organization opposed statewide minimums from the beginning of the debate, suggesting that statewide testing represents a "bastardization" of the process approach. In his view, the "process approach meant a decentralization of decision-making to locals with the department playing an auditing role. With this statewide testing, the state will play a larger role than originally intended."[66] Moran emphasized that minimum standards in the basic skills represents merely one isolated part of the educational spectrum. Allocating more money to basic skills diverts resources from other important educational program areas such as vocational education, music education, and the humanities. It was this shifting of resources which most troubled administrators.[67]

The Joint Committee on the Public Schools, created under the authority of the Public Education Act to monitor the implementation of T&E, emerged as an important organization in education during this period. The Chairman of the Committee, Senator Stephen Wiley, who had previously chaired the Joint Education Committee, which played an important role in formulating S1515 -- the Public Education Act, became an important actor in educational decision-making.

Wiley, strongly committed to the local control of schools, was persuaded by the arguments against statewide minimum standards offered by the educational organizations and joined them in their effort to oppose them.

A 1736: The Quest for Accountability: It must be kept in mind that the crisis in public education precipitated by the court decisions was posed in more urgent terms when the public education act was passed in September, 1975, but not funded. This lack of funding which was needed to support the new educational and state aid redistribution plans posed a serious fiscal problem to state policy-makers. The income tax and the concern over increased state spending was an important issue as statewide minimum standards was being debated. It must be recognized that New Jersey state government has traditionally played a relatively small role in the delivery of services to state residents. The taxpayers of New Jersey have traditionally opposed increased state spending and had defeated two previous efforts by governors who had pushed for an income tax.

Despite the fact that he ran on a platform opposing the income tax, Governor Byrne presented an income tax proposal to the state legislature. He emphasized that in order for the state to respond to the court's mandate regarding education finance, an income tax was essential.

The Republicans in the legislature were opposed to the adoption of a new state income tax. A conservative party generally opposed to increase spending and increased taxes, republicans opposed the income tax considered during this period. Assemblyman Thomas Kean, republican minority whip in the Assembly, had continually voted against an income tax. Several observers of New Jersey politics suggested that in early 1976, Kean was looking for a popular, liberal, pro-urban issue which he could use as a platform for his reelection and a possible bid for the governorship. Statewide minimum standards became that issue.

Statewide minimum standards in the basic skills was popular among the citizenry because, as one educator put it, "it's hard to be against standards." Moreover, minimum standards required measuring the performance of students which could also be viewed as measuring the performance of the schools. Kean saw minimum standards as an accountability mechanism, one which could be used to hold the educators accountable for the new revenues they would realize with the passage of the income tax.

Kean contacted the Education Law Center and the N.J. Education Reform project and requested their help in drafting the new legislation just days before he introduced it in the assembly. The Education Law Center and the N.J. Education Reform Project provided the assistance which he requested.

The bill (A 1736) was introduced in the assembly on March 3, 1976 by Assemblyman Kean and was co-sponsored by 18 Republicans. The bill was introduced as part of a tax package designed to win republican votes for the income tax. Kean argued that "the people of the state must have some notion that the schools will be held accountable for the money that will be provided by the income tax." Moreover, he claimed "I absolutely would not have voted for the income tax without this bill."[68]

Governor Byrne strongly supported the bill. It passed the assembly on March 15 by a vote of 67 to 9 and was sent to the senate. Educational organizations bitterly opposed the bill. Robert Braun, the education reporter for the Star Ledger, claimed that "only the bills continued linkage with the income tax measure is expected to save it from the attacks by the NJEA."[69]

The New Jersey Education Reform Project was concerned that each individual student in low wealth urban districts receive the remedial help which he needed and that the minimum standards not vary from school district to school district. In a report issued in January, 1976, the NJERP claimed that:

> by creating statewide minimum pupil proficiency levels, it insures that every child who needs help is identified regardless of the child's socio-economic characteristics or geographical location -- the state does have the responsibility to establish a floor below which no district may permit a child to fall without providing whatever instructional and other services are necessary to reach that floor ...[70]

The urban groups tried to maintain the concern for quality education with which the statewide standards movement began. The bill reflected the concerns of these urban groups. It essentially set a floor below which no district would be permitted to establish its own proficiency levels. It also called for the "use of such standards to trigger remediation services for underachieving children at all grade levels."[71]

The Senate Education Committee, chaired by Senator Stephen Wiley, held hearings on the bill on April 22 and May 11, 1976. At this point, taxpayer concerns for accountability dominated and the concern over educational quality took a back seat. The minimum standards bill definitely shifted policy arenas, moving from the educational policy arena to the tax policy arena. This represents a politicizing of the issue. The educators who had strongly opposed it on professional grounds began to modify their opposition fearing that they might jeopardize the income tax bill. Senator Wiley who opposed statewide standards realized that with the concern for accountability generated by the income tax, passage of the standards bill in the Senate was inevitable. The best that he and the educational interest groups could hope to accomplish was a modification of the bill reflecting the concerns of the education community.[72]

With the recognition of its inevitability, and the strong support of the governor, opposition among educators began to wane. The N.J. School Boards Association was the first major educational organization to announce its support for the standards bill. Mark Hurwitz, Executive Director, explained that they took the "public pulse" and "did not think it was a good strategy to take on the whole state of New Jersey."[73] The PTA provided its support. The commissioner of education did not support the bill but in light of the governor's position, his opposition to the bill was somewhat muffled.[74]

The New Jersey Education Association and the N.J. Association of School Administrators remained firm in their opposition. In April, 1976, the NJEA issued a legislative bulletin calling on its membership to participate in a letter campaign designed to block release of the bill to the senate floor by the Senate Education Committee: It included the following criticisms: (The bill --)

1. Changes the entire thrust of T&E -- the new school reform act, or "thorough and efficient" bill by forcing all districts to focus merely on minimal levels of achievement, thereby fostering mediocrity instead of educational excellence.
2. Supresses individual spirit and humaneness by dealing solely with quantitative levels in an educational program.
3. Ignores the classroom practitioner as the person who is in a far better position to evaluate students' need than any single instrument to measure minimum competencies.
4. Places the onus on the student to reach some imagined plateau.
5. Encourages a single minimal level of expectation applicable to all children regardless of demonstated abilities, interests and prior achievements.[75]

The NJEA argued that it would cost too much to implement and that it was a serious threat to local control of schools. Robert Braun, a reporter for the Star Ledger noted for his continuous opposition to the teacher organization, quipped that these "two positions ... have rarely concerned the NJEA before." The fact that the School Boards Association, which is a strong local control advocate, supported the legislation somewhat mitigated the local argument made by NJEA.[76]

The NJEA was initially concerned with protecting the interests of teachers. However, as they became increasingly involved, their focus shifted from protection of teachers to a concern for kids.[77] They argued that the individualized T&E planning process and the locally-determined minimum levels of proficiency was in the long term interest of the children in New Jersey. Based on a study of existing competency programs, the NJEA suggested that minimum competency objectives often have undesirable negative affects:

> 1. The onus falls on the student who is pressured to reach some imagined plateau, rather than on the system's responsibility to provide the necessary resources and support in which we know children can learn.
>
> 2. The failure of children to reach some prescribed standards only exaggerates the sense of failure.
>
> 3. And, eventually, we would have to ask ourselves if the kinds of assessment techniques used with a prescribed State-standards system would exaggerate social separatism between and within communities?[78]

The Bill passed the Senate on May 24, 1976 by a vote of 30-4. The N.J. School Boards Association called the bill "the salvation of the urban schools" while the New Jersey Education Association referred to it as "a mandate for educational mediocrity."[79] The senate version was considered a watered down version of the original bill which passed the assembly in March, 1976. The bill passed in the assembly called for statewide standards and remedial programs for all students not meeting the specified standards. The senate version provided for statewide standards but "allowed local school districts to set schedules for remedial programs for their students."[80]

The Education Law Center concluded that the senate amendment requiring for the local determination of reasonable progress toward educational goals "really knocked the stuffing out of the bill.[81] Braun argued that the assembly bill was rendered meaningless by the senate action "since the decision on whether children were making progress toward state standards was to be left with the school districts."[82]

The bill went back to the Assembly where the revised version was passed on June 10, 1976. The governor signed the bill on September 24, 1976. During this period, the State Board Task Force on Competency Indicators and Standards continued to work on recommendations regarding the implementation of statewide minimum standards. They presented their report to the state board on October 6, 1976. During the 1976-77 academic year, the basic skills program was implemented using results from the Educational Assessment Program. The Division of Research, Planning and Evaluation spent the 1976-77 academic year designing a new basic skills assessment instrument for use in the next academic year.

Summary

The statewide minimum standards issue began as a search for equal educational opportunity initiated by the urban interest groups in the state. Statewide standards were opposed by the educational organizations who preferred locally-determined levels of pupil proficiency. The opposition of educators was based on professional concerns about the individualized nature of education, the "process" orientation of the T&E legislation, and the localistic approach to educational decision-making in New Jersey which is a strong local control state. Rather than a simple revision in the administrative code, it took a separate piece of legislation to get statewide standards adopted. Ruch Mancuso, President of the State Board of Education, noted that she and other educational leaders had failed to structure the dialogue. The debate, especially after the bill was introduced in the assembly, was dichotomized into an issue of standards or no standards. "Who is going to oppose 'standards'?" Mancuso asked rhetorically.[83]

The income tax debate and the concern for accountability among New Jersey taxpayers emerged as the critical factor in the establishment of statewide standards in the basic skills. Whereas the statewide minimum standards issue was initiated and could very well have been decided within the executive, the income tax issue was a political issue which was debated in the state legislature. Under the banner of accountability, which has substantial merit in its own right, the statewide standards bill was linked with the income tax issue. This linkage politicized an issue of crucial importance to educators in the state. Rather than standing and falling on the merits of the arguments presented, the standards bill was the object of forces at work in the legislative arena, not the least of which was the reelection of individual legislators. This shift in arena served to augment the evolvement of a "strange coalition" in support of statewide standards which included fiscal conservatives and liberal reformers concerned with education. They shared a common concern for holding educators accountable although their motives differed considerably.

New Jersey education policy includes statewide minimum standards of proficiency in the basic skills. An issue which emerged out of a concern for quality education and equal educational opportunity became a reality due to a broad-based concern for accountability, a concern which surfaced with the debate over the income tax. New Jersey has statewide standards but it is unlikely that this would be the case if there had been no fiscal crisis or an intense debate over an income tax.

The crisis in public education offered an opportunity for fundamental educational change as the state attempted to define T&E. The need to assess performance and establish remedial activities where they are needed based on those performance measures is a positive step in insuring that quality education is provided in districts across the state. Statewide minimum standards represents the imposition of output criteria in a reformed educational system that had decided to focus its energy on process. It mandates a considerably stronger role for the state and poses a threat to important actors in the educational system, most notably teachers.

The educational change implied in the statewide minimum standards issue was resisted by an education coalition committed to an educational process. However, the forces for change associated with the income tax were sufficient to overcome the resistance of the educational bureaucracy and educational interest groups.

What kind of change this all means for the delivery of educational services in New Jersey is an open question. The answer, to a large extent, depends on the manner in which the new T&E planning process is implemented.

OPTIONAL STATE AID FIGURES

The fiscal crisis was an important factor in the outcome of the debate over statewide standards. The educational coalition in the state vehemently opposed statewide standards However, the broad-based concern among taxpayers for accountability generated by a concern over the adoption of a new income tax provided the basis for the convergence of disparate interests in support of statewide standards. The final two sections of this chapter examine the fiscal crisis and its disruptive effects on the context of educational decision-making as well as the organizational response to this environmental ambiguity.

The fiscal crisis had two dimensions. First, urban areas generally have confronted a mismatch between needs and resources as a result of demographic shifts and changes in the location of economic activity. Cities are confronting declining tax bases while the need for services expands. This aspect of the fiscal crisis did not end with the passage of the income tax. The concerns voiced by the urban interest groups in the debate over minimum standards were a manifestation of this aspect of the fiscal crisis. It will continue to be a significant factor in educational decision-making for the foreseeable future.

The second dimension of the fiscal crisis was alleviated by passage of the income tax. The supreme court's mandate to establish a new state-aid distribution formula and an educational system which would provide for equal educational opportunity imposed a tremendous financial burden on the state government. Many of the states involved in school finance reform have had a surplus in the state budget which can be used to increase the amount of state aid to school districts. In the year prior to the mandated date for implementation of the new education act, the N.J. state budget ran a deficit of some 300 million dollars. It was originally estimated by the governor's Task Force on Education, Finance and Taxation that 550 million would be needed to implement T&E, 300 million to cover the anticipated revenue shortfall, and 200 million for municipal overburden.

The normally routine state aid process was disrupted by the uncertainty posed by the failure to fund the new Public School Education Act. The problem confronting the department was one of determining which state aid formula to use in computing state aid amounts to be sent to school districts. The decision to send optional figures resulted in widespread confusion in the state's educational budgetary process. This decision was critical and affected both the ultimate passage of the income tax and the statewide minimum standards legislation.

The indecision over a funding source caused considerable chaos by disrupting the process of budget preparation by state level and local school district administrators. In the November preceding each school year, the Commissioner is required by law to send state aid notices to local superintendents and school boards certifying the amount of state aid a district can anticipate for the next school year. This is usually a simple procedure in that the legislature appropriates the amount required by the state aid formula. However, in November, 1975, there were a number of decisions and nondecisions related to the fiscal crisis involving the New Jersey Supreme Court and the state legislature which turned a normally simple procedure in the budget process into a nightmare for the state department of education and state educational organizations.

The conception of crisis used in this study suggests a number of conditions which pertain to the discussion on state aid figures. Crisis usually involves the following: uncertainties in assessing a situation and in formulating alternatives for dealing with it; a reduction in control over events and their effects; a heightened urgency which often produces stress and anxiety among participants; circumstances in which information available to participants is usually inadequate; and increased time pressures for those involved. The fiscal crisis confronting New Jersey state educators involved uncertainty as to which state aid figures to send to local school districts; a loss of control over events and effects in that the

Supreme Court and the legislature made important decisions which conditioned the action of the commissioner; a sense of urgency and stress among participants in that state aid figures normally go out to local districts in November; inadequate information on state aid which posed significant problems for the commissioner and school district administrators.

Background

The uncertainty over state aid was originally felt in November, 1974, when the recently appointed commissioner of education was forced to delay certification for the school year 1975-1976. In declaring the existing method of school finance unconstitutional, the New Jersey Supreme Court gave the legislature until December 31, 1974 to enact a new funding plan which was scheduled to go into effect on July 1, 1975. Uncertain as to whether the legislature would act by the deadline, on November 12, 1974, the commissioner of education emphasized to local superintendents and state boards that his staff was working cooperatively with the governor, his administration, and the Joint Education Committee of the senate and assembly "to resolve the funding crisis which school districts face as they prepare their 1975-1976 budgets."[84] Commissioner Burke advised school districts that he would have to delay state aid notices:

> Calculations pursuant to existing statutes have been made and are on file in the Department of Education. As these statutes may no longer be effective after December 31, 1974, to notify districts at this time would serve no worthwhile purpose, would be counter-productive, and would prove confusing in 1975-76 budget preparation. Therefore, the SA2 and SA3 notices will be held awaiting the legislative enactment, at which time you will be notified regarding state aid.[85]

In an affidavit filed with the N.J. Supreme Court, the commissioner informed the court of the problems associated with the delay in sending state aid figures to local districts. He emphasized that school district budget elections would have to be delayed, preventing the county board of taxation from certifying a tax rate on April 1 and for meeting statutory deadlines. This, in turn, could result "in a serious cash flow problem for all local school districts since if no tax rate is certified, no revenue will be available in each municipality on July 1, 1975 to support the schools during the school year 1975-76."[86] Commissioner Burke urged the supreme court to provide direction by January 24, 1975.

The court did not act in January, 1975. The commissioner of education certified state aid figures reflecting the governor's request for state school aid contained in his budget message for the 1975-76 school year. Since the governor is required under the state constitution to submit a balanced budget, this state aid request was the same amount appropriated for the 1974-75 school year.[87]

Public School Education Act: Increased Uncertainty

In November, 1975, the ambiguity over the income tax continued and the decision on the certification of state aid for the 1976-77 school year was again a serious problem. On May 23, 1975, the New Jersey Supreme Court ordered that state aid be distributed and disbursed under the incentive equalization aid formula contained in the existing legislation.[88] In September, 1975, the state legislature passed the Public School Education Act establishing a new state financing plan which included a state aid formula designed to meet the distributive issue raised in the Robinson litigation. These separate governmental actions posed a dilemma to the commissioner of education. Should he send state-aid notices based upon the May 23 order of the court using the formula the court referred to in its opinion or should the notices include figures which reflect the formula contained in the new Education Act?

The problem confronting the commissioner seemed to hinge on whether or not the new act would be implemented in the 1976-77 school year. Shortly after the act was passed, the governor "requested that the court find the 1975 Act constitutional and, accordingly, vacate its May 23, 1975 order and permit implementation of the new Act for the 1976-77 school year."[89] On November 19, 1975, Commissioner Burke sent a memo to school district officials explaining the source of the confusion and offering the following advice:

> The Department of Education has been advised that until such time as the Supreme Court determines whether the 1975 Act is to be implemented for the 1976-77 school year, the court's May 23, 1975 Order and all related laws governing budget preparation and determination remain in effect. Therefore, you are advised to proceed with your budgets for the school year 1976-77 in accordance with normal procedures and timetables.[90]

The memo reflected the ambiguity and uncertainty involved and suggested that if the supreme court determined that the 1975 Act should be implemented then all school districts would be required "to comply with that act (except the December budget submission deadline set forth in Section 28 of the Act) as well as budget procedures and timetables not repealed by the Act."[91]

On November 24, 1975, the Commissioner sent state aid information to local education officials. Given the contingencies outlined above, the memorandum contained four alternative plans: "(1) the Court's May, 1975 Order fully funded; (2) the Court's May, 1975 Order funded at the level of presently available resources; (3) the 1975 Act fully funded; and (4) the 1975 Act funded at the level of presently available resources."[92] Since local school officials normally receive one state aid amount, the multiple figures caused concern and confusion among school district officials involved in the budget process.

On January 26-27, the Commissioner held a series of regional meetings with superintendents of schools and presidents of boards of education from the 600 school districts in the state. Commissioner Burke scheduled these meetings because, as he noted in an opening statement in a T&E TV Town Meeting: "the deadlines for local school districts for finalizing their local school budgets rapidly approached -- I also felt that I had to personally convey the seriousness of the fiscal problems to the school districts as soon as possible."[93] At these meetings, Burke notified "each of the state's 600 districts of its state aid entitlement under the Court order of May 23, 1975."[94]

Burke also explained the contents and the constraints posed by the governor's budget message for FY 1977. Under the state constitution, the governor is required to present a state budget which balances state expenditures with existing revenues. Consequently, the budget message requested state aid to local school districts within the parameters established by the supreme court in its May 23 decision and within current fiscal resources. The budget message also contained information which would permit the legislature to fund the new T&E legislation if and when the supreme court determined its constitutionality. As indicated in Table 1, full funding of the Public School Education Act required 336 million more revenue than the state's existing revenue capacity.

In addition to informing school district officials of the decreased support they would receive under the proposed budget, the commissioner outlined a number of additional cuts which would be recommended:

> Tuition would be charged to students at the Marie H. Katzenback School for the Deaf.
>
> Elimination or phasing out of Project COED in Newark now serving 550 vocational students.
>
> Elimination of all funds for bilingual education programs.
>
> Elimination of adult education funds, including high school equivalency and programs for the foreign born.
>
> Deletion of funds for all extraordinary programs, except statewide testing.[95]

The Commissioner emphasized that these cuts would involve the elimination of 167 jobs in the State Department of Education and would require a reappraisal of the services which the department normally provides to local school districts.

TABLE 1

STATE AID ALTERNATIVES

Governor's Request Under Existing Revenue	
Current Expense Formula	$431,808,284
Building Aid	19,383,951
Transportation Aid	37,070,000
Atypical Pupil Aid	62,604,818
Other Categorical Aids	33,938,917
Subtotal	$584,805,970
Aid reduction to cover 25% Pension Contribution	-53,914,252
Total	$530,891,718

Full Funding of Ch. 212 Public Education Act of 1975	
Evaluation and Incentive Aid	$568,093,418
Minimum Aid	54,639,464
Building Aid	48,304,123
Transportation Aid	77,914,193
Atypical Pupil Aid	74,000,000
Compensatory	33,002,999
Bilingual	4,536,719
Local Vocational	4,076,775
Other Provisions	1,500,000
Total Aid Programs	$866,067,691

SOURCE: Governor's Budget Message for FY 1977. Figures are contained in The Statement of Commissioner Fred G. Burke to Local Officials in a series of Regional Meetings on January 26-27.

Confusion at the Local Level

The situation confronting school districts in late January, 1976, was bleak as February budget elections approached. In the last days of January, school districts had four state aid figures from which to choose instead of the one figure normally received in November. The governor's budget also reflected the funding uncertainty. It proposed severe budget cuts which would seriously constrain the operation of the schools. As Burke pointed out in his message: "Very likely, many services which the school community and the public have long taken for granted may need to be sharply curtailed or eliminated completely."[96] In the departments monthly newspaper, Commissioner Burke and Mrs. Ruth Mancuso, President of the State Board of Education, emphasized the urgency of the situation:

> Local school districts simply don't know where to turn at this point. Uncertainty over state aid last year contributed to voter rejection of school budgets in unprecedented number. Because State Aid estimates for the current year are, if anything, less reliable, there is little hope that the voters will reduce the number of school budget defeats during the weeks ahead. Our present local school district budgeting process can best be described as chaotic. We share with most members of the educational community deep fears that the very fiscal integrity of many of our local school districts hinge on the outcome of the on-going struggle to obtain adequate state funding for public education.[97]

The Supreme Court Acts: Continued Uncertainty

A few days after Commissioner Burke's regional meetings concerning school district entitlements under the court's May 23 order, the New Jersey Supreme Court, on January 30, 1976, vacated the order and declared the Public School Education Act constitutional and "in full force and effect -- if, and only if, fully funded." This decision by the court did not remove the uncertainty but replaced it with another source of uncertainty. The first two figures contained in the four alternatives presented to the local districts in the memoranda from Commissioner Burke on November 19 and 24, were no longer applicable given this most recent ruling of the court. The uncertainty now was focused on whether or not the new Public School Education Act would be fully-funded.[98]

If the state legislature acted to appropriate the funds needed to implement the Education Act, the uncertainty would dissipate and the school districts would receive one state aid figure. Without that action by the state legislature, the Commissioner remained uncertain about which figure to provide:

> This court action -- taken less than three days before some of our school districts are required by law to finalize their budgets -- has placed me in a dilemma. On the one hand, the Court has declared the T&E law constitutional. Therefore, I must by law send out state figures that show what each local school district would receive if the law is fully funded as the law itself requires. However, in all honesty, I cannot responsibly represent to you that these figures are realistic. The Court itself was unable to confidently make this prediction.[99]

Commissioner Burke provided information related to two figures: (1) a state aid figure based upon full funding of the Public School Education Act, and (2) a figure based upon option A outlined by the court. The second figure used the new funding formula based upon the state aid amount requested by the governor in his recently announced budget message. The governor's budget request also posed additional cuts as described above and required that school districts pick up the teacher pension expenditure in their budgets. The lower figure posed severe cuts in school district budgets.

The decisions by the Commissioner to send alternative state aid information in November and February were not made in a vacuum. There was some question about whether or not the Commissioner had to send any alternatives at all. Some have argued that he could have certified one state aid figure which would have substantially reduced the uncertainty and frustration experienced during this period. Others have argued that the decision to send optional figures had the intended consequence. The optional figures increased the ambiguity and pressure on local officials who in turn put pressure on their state representatives in the legislature to take action to alleviate the fiscal crisis by passing an income tax.

The Decision Process

Commissioner Burke received advice from his senior staff, the heads of other educational organizations, and political actors including Governor Byrne.

The SEA: Within the State Education Agency this decision consumed considerable time of senior staff and was discussed at senior staff meetings. Joseph Zach, Assistant Commissioner, Division of Controversies and Disputes, emphasized that the Commissioner found himself in a "peculiar position." Burke did not feel that he could send full-funding figures unless it could be shown in the budget how the revenue would be raised.[100] Ruch Mancuso, President of the State Board, emphasized that "you can't very well tell them (school districts) that they're going to get money (under Ch.212) when there is no source."[101] This represented the predominant thinking within the state education agency.

Within the department, Commissioner Burke received advice from senior staff individually and during senior staff meetings which were held regularly during this period. His primary advice on this decision came from the Division of Administration and Finance (A&F). Dr. Vincent Calabrese, Assistant Commissioner for A&F met regularly with the Commissioner and provided up-to-date information on a timely basis. Bernard Steinfelt and Herbert Starkey also served as key financial advisors. Steinfelt and Starkey provided data and information on the various alternatives to the Commissioner and to the supreme court and legislators upon request. Their advice to the commissioner was based on an awareness of the governor's budget message and the uncertainty which resulted from the May 23 decision of the supreme court threatening to redistribute existing state aid.[102] Rather than make a definitive statement or decision to send one figure, it was decided that it would be prudent to provide school districts with the best and most up-to-date information in as timely a fashion as possible. The Commissioner had decided that "we have no alternative at the moment but to live with this ambiguity."[103]

In November, 1975, the mood within the SDOE was one of confusion and turmoil. The commissioner of education had a responsibility to certify state aid figures upon which school districts could set their budgets. Within the department, it was clearly recognized that there was only one legal figure -- the figure based upon the state aid formula contained in the new education act. The commissioner and his senior staff believed that providing this legal figure could have dire consequences if the legislature did not provide the needed funding. If Commissioner Burke certified the legal or full funding figure and the legislature did not pass an income tax, the school districts had two options: to go back to the public to seek an increase in their property tax rates in order to obtain the needed revenues to continue operations, or to initiate a reduction in force from 20 to 30 percent. The school district budgets would not be supported by revenue. To the commissioner and his senior staff, this was an unacceptable risk.[104]

Providing timely information on alternative state aid figures, including a low figure based upon existing state revenue, was viewed as a more desirable alternative. School districts that budgeted using the low figure would have a realistic budget in the event that the legislature did not pass an income tax. On the other hand, if the legislature did pass the tax, it is much easier to modify a budget to accommodate unanticipated revenue. Departmental officials believed that it would be much easier to reduce taxes or give more state aid based on new revenues and realistic budgets than it would be to raise more taxes and have to reduce staff as a result of setting local budgets in anticipation of increased state aid.[105]

This thinking of the Commissioner of education and his advisors from the Division of Administration and Finance was influenced by two perceived facts: (1) the Public School Education Act had been passed by the legislature but it had not been declared constitutional by the supreme court, and (2) there was no money in the governor's budget to finance the new act.[106] Since the court had previously expressed its intention to review the constitutionality of education legislation, Commissioner Burke wanted to know the court's view regarding the constitutionality of the new act before he made a final decision on state aid. Having provided information to school districts on four possible state aid figures in November and confronting a deadline of January 25, the last day on which state aid notification can be delivered, Commissioner Burke asked the N.J. Supreme Court for advice on the constitutionality of the Public School Education Act. The court responded by informing the commissioner that there was no reason to anticipate a court decision within the next week. However, on January 30, 1976, the supreme court ruled that the education law was constitutional only if it was fully funded. In February, 1976, the commissioner sent two figures to school districts: (1) a figure based on full funding of the new act, and (2) a figure using the new formula but based on existing revenue as contained in the governor's budget. The department recommended that school districts use the lower figure.

A majority of the school districts (400) accepted the department's advice and used the lower figure.[107] The passage of the income tax in July, 1976 produced approximately 300 million in unanticipated state aid. Legislators were afraid that this unanticipated revenue would be wasted. Many feared that it would simply go into increased salaries for teachers. The 400 school districts which had budgeted low based on advice from the department wanted their fair share of the state aid. Many of these school districts had reduced teacher salaries and cut various athletic programs in an effort to submit a realistic budget. Despite the efforts of the department, the legislature decided to place restrictions on the use of the unanticipated state aid. On November 9, 1976, the legislature enacted SB 1503 to amend the Public School Education Act establishing special procedures for the distribution of state aid to school districts. This amendment provided a mechanism by which the difference between anticipated aid and full entitlement would be allocated between property tax relief and school budget adjustments.[108] As a result, 210 of the 300 million in unanticipated aid went into property tax relief. Local school districts were frustrated and angry. The credibility of the department suffered a serious blow.

The Education Coalition: Educational organizations also provided advice on this decision. The New Jersey Education Association and N.J. Association of School Administrators (NJASA) strongly supported sending one figure -- the full-funding figure -- to local school districts. James Moran, Executive Director, NJASA, suggested that if a definitive decision had been made to send the legal (full-funding) figures to the local districts, then "New Jersey would probably not have had a school crisis." Moran argued in retrospect that the decision belonged in the legislature and that administrators should not have been in the business of trying to anticipate legislative action. He suggested that by certifying the full-funding figure, the legislature would have been forced to deal with the problem when the funds ran out.[109]

The Commissioner sent two figures to the school districts. He certified a figure based on full-funding of the Public School Education Act which had been declared constitutional by the New Jersey Supreme Court if full-funding was provided by the legislature. Commissioner Burke advised full-funding might not be available and that school districts would be well-advised to consider a smaller, more realistic figure.

The New Jersey Association of School Administrators, with the support of the NJEA, the PTA, the Association of Secondary School Principals, the Association of Elementary School Administrators and the Association of School Business Administrators, strongly argued that the law required the full-funding figure. In a position statement sent to administrators through the NJASA Hotline, James Moran argued:

> It is my position that the only valid legal figure which a district may use is that figure certified by the Commissioner as the amount to which the district is legally entitled under P.L. 212, which was recently declared constitutional by the Supreme Court of New Jersey.
>
> It is my further contention that when the Supreme Court declared P.L. 212 constitutional, it became the law of New Jersey and created a condition whereby Boards of Education have a preemptive right to the funds mandated by the law in accordance with the distribution formula set forth therein.
>
> The Commissioner upheld his legal requirement by acknowledging the legal entitlement to such funds. His advisory on fund availability should be treated as advice only, and non-binding upon local boards -- only the certified figure should be considered in determining revenue anticipation for budget purposes. Albeit the Commissioner has attempted to fulfill both his legal and moral responsibilities. However, only one figure can be valid, and that is the figure to which Boards are entitled under P.L. 212.[110]

Moran emphasized that the full funding figure was the "legal entitlement" of all school districts. He went on to suggest "that the Governor's failure to request the appropriate funds to implement P.L. 212 in his budget message to the legislature constitutes a questionably legal and totally political act."[111] Moran pointed out that the NJASA attorneys were directed "to take whatever action necessary to stop any attempt to transfer state pension responsibility to the local school district."[112]

Shortly after Moran's statement, a Coalition for Full Funding was established. It involved the organizations noted above in an effort to get that position adopted. These groups emphasized that "to fail to include full funding of Public Law 212 in local school budgets and to include any form of pension contribution would, we believe, anticipate continued inaction by the New Jersey Legislature."[113]

One key major educational organization would not support the full funding figure. Shortly after Moran's statement was announced, the New Jersey School Boards Association sent a letter disavowing any commitment to that position. On Friday, February 6, in a memorandum directed to All Board Members, Superintendents, Board Secretaries and Board Attorneys, Mark Hurwitz, Executive Director, NJSBA, provided advice on the appropriate figure to be used in preparing local budgets for election. In the memo, Hurwitz outlined three options and offered a specific recommendation. He argued that to adopt the full-funding figure and to present a normal budget would be dangerous since it would be based on "unrealistic state aid figures." He argued that:

> When it becomes known in early June, or so, that Chapter 212 will not be fully funded, districts will be faced with budget deficits. The district will either be forced to make budget cuts and, in many places, drastically curtail school operations, or seek additional revenues through an increase in property taxes.[114]

Hurwitz advised local school boards to prepare a normal budget based on the low state aid figure provided by the Commissioner. This recommendation was based on Plan A of the court funded at a level consistent with the governor's budget. Their budgets would be based on a more realistic state aid figure and, perhaps most importantly, it will "allow districts to make any necessary program and personnel cuts prior to April 30, the last date personnel must be notified if they are to recieve a contract for the following year."[115] This position was in direct conflict with the position of the Coalition for Full Funding.

The Governor's Office: The views of the educational organizations were presented informally to the commissioner prior to his decision to send information concerning two figures. Commissioner Burke was also getting pressure from Governor Byrne to provide the optional figures rather than the full-funding figure. The Governor's office carefully considered the various options and concluded that the full funding figure would be misleading to school districts. If the additional state revenue were not raised, it could have serious consequences.[116]

One of the Governor's primary motivations for urging optional figures appears to have been political. The income tax remained the victim of a stalemate in the legislature. It became clear that providing a low figure on state aid would create constituent pressure at the local and county levels on behalf of increased revenue which would in effect provide support for the income tax. A similar concern for constituent pressure was also articulted in the School Board's Association's recommendation supporting the "low" state aid figure:

> In March, local citizens will have several choices -- either a sharp rise in property taxes, dramatic curtailment of school programs or active support for the full funding of Chapter 212. The choice they make will be seen and heard by state legislators who have said time

198

> and again that they do not believe their constituents want tax reform. If their choice is support of full funding through tax reform, that support will come now when the issue should be dealt with.[117]

Despite the advice of educators to the contrary, local school boards and administrators were presented with two state aid figures on which to base their budget preparation for the school year 1976-77. They received conflicting advice from the major state educational organizations about which figure to use. The N.J. School Boards Association was concerned that school boards were going to find themselves without the funding to maintain already established programs and to pay the salaries of personnel. The teachers (NJEA) and the administrators (NJASA) were concerned that programs and staff would be cut prematurely and/or needlessly.

The one thing educators could agree on, however, was the total confusion and chaos which resulted at the local level from the alternative state aid figures. In a Hotline release, the NJASA noted that "to say that a state of confusion exists in the creation of school board budgets for the 1976-77 year is indeed an understatement."[118] They described the confusion as follows:

> A significant number of school boards are certifying full funding under Public Law 212 as their revenue projection.
>
> A significant number of school boards are projecting as state aid revenue some number other than full funding as indicated by Public Law 212. These projections range from zero state aid to 90-some percent of full funding.
>
> Boards have, in fact, refused to certify their budget for vote.

> A number of school boards have refused to certify the pension contribution as part of their expenditure side of the budget. Still other districts have included the pension contribution as part of their budget.[119]

The School Boards Association described the situation as a "sea of turbulence" and observed that "it would be a gross understatement to describe the situation as 'highly confused.'"[120] In a bulletin labelled URGENT, the New Jersey Congress of Parents and Teachers emphasized to their membership that "fear, resentment and suspicion is rampant at local, county and state levels over what amount will be forthcoming ..."[121]

Summary

The confusion over state aid was a direct result of the uncertainty over a new state funding source which was needed for the implementation of the Public School Education Act. The optional state aid figures presented to school districts totally disrupted the educational budgetary process. Local school boards prepared their budgets using varying figures about which they were receiving conflicting advice from state organizations. At that time, local budgets and state aid amounts remained tentative as the debate over the income tax continued.

At the state level there was considerable debate over the best way to handle the ambiguity regarding state aid. The NJEA, NJASA, PTA and other educational groups urged local districts to prepare their budgets based upon full funding of the new Act. They did not want to see needless cuts in programming and staff which would negatively effect the quality of education in the state. The School Boards Association argued that budgets should be calculated using low state aid figures in order to avoid a situation where expenditures could not be supported by revenues.

The governor's office encouraged the commissioner to send optional figures. The governor is required by law to present a balanced budget. He was concerned about the serious consequences of calculating school budgets based on full-funding if such full funding did not materialize. It also appears that a critical factor which played a role in this decision was the political concern for the need to generate constituent support for the income tax at the local level. Confronting the fiscal crisis by passing an income tax was a major objective of the Byrne administration. It appears that the advice on state aid may have been part of a strategy to generate constituent pressure at the local level for the income tax. The confusion at the local level over state aid and the frustration involved in the budget cuts imposed by the governor were important factors in developing this support.

CRISIS WITHIN A CRISIS

The closing of the schools by the New Jersey Supreme Court for legislative failure to fund the Public School Education Act proved to be the critical factor in the passage of the income tax. Press accounts of the legislative stalemate over the income tax began to include discussions of the possibility of a school closing shortly after the injunctive order was issued by the New Jersey Supreme Court on May 13, 1976. It was not until after the school system was actually shut down for eight days that the legislature was able to act.

On July 9, 1976, Governor Byrne signed Assembly Bill 1513 at 10:01 AM. This action culminated a 41 year effort to tax personal income in New Jersey.[122] In 1935, Governor Harold G. Hoffman proposed an income tax as a means of closing a budget deficit. Instead, the legislature opted for a 2 percent sales tax. "For the next quarter of a century, the leaders of both major political parties consistently opposed any type of broad-based tax for the state."[123] The state was content to impose commuter taxes on New York and Pennsylvania residents who worked in New Jersey. In 1964 Governor Highes proposed a modest 1 to 5 percent graduated income tax which barely passed the assembly but was never brought to a vote in the senate. In 1972, Governor Cahill established a highly respected Tax Policy Committee which issued a six volume report containing recommendations for comprehensive reform of the state's tax structure. The graduated income tax contained in the report was soundly defeated in the assembly. Governor Byrne used many of the recommendations of the Tax Policy Committee in proposing a comprehensive tax reform package in 1974. An income tax graduated at 1.5 to 8 percent barely passed the assembly in July 1974, but was quickly rejected by the senate. Two years later, the legislature passed an income tax, but not until after the state's school system had been shut down. This tax was a far cry from the reform package which Byrne had originally proposed. In signing the bill, Byrne observed: "I know I'm not signing a piece of legislation that does everything I'd like it to do -- but it will open the schools. It meets the Supreme Court mandate."[124]

New Jersey policy-makers had been dealing with the crisis in public education and the fiscal crisis since 1973 when the supreme court declared the method of financing public education unconstitutional. The court ordered the legislature and the executive to formulate a new state aid distribution formula, to clearly define the state's education clause, and to provide the funding necessary to implement the new system of education. The crisis became more acute in September, 1975, when the legislature passed the Public School Education Act but failed to fund it. The court tolerated this situation for seven months, cognizant that the new act was scheduled for implementation on July 1, 1976. In May, 1976, the court issued an order enjoining the expenditure of funds for education after July 1 if, by that time, the legislature had not provided a new revenue source.

This injunction posed a crisis within a crisis. The threat to close the schools was the turning point in the state's effort to deal with the fiscal crisis and the income tax issue. Legislators were confronted with a new set of circumstances. Their continued inaction would, for the first time, directly affect the school children of the state. The injunctive order produced considerable stress and anxiety among participants, legislative as well as executive, including educators and the heads of major state interest groups. The possible school closing increased the time pressure on those involved and raised tensions among the participants.

This section examines the period following the court's injunctive order focusing on the turbulence surrounding the debate over the income tax and the actions of the SDOE and other educational interest groups. The educational community was in the midst of considerable turmoil and change before the court's injunctive order which continued throughout this crisis within a crisis period. The SDOE was in the process of a major reorganization which involved substantial shifts in responsibility and changes in personnel. The department was experiencing budgetary constraints. In his message to the Joint Committee on Appropriations, Commissioner Burke lamented the FY 1977 allocation for education, emphasizing the staffing problems which had been perpetuated by the fiscal uncertainty in recent years. Burke warned that "unless our current request for 26 new positions to staff county offices is restored, one-third of the school districts will receive no technical assistance to implement the new law."[125] The confusion in the educational budget process continued and did not subside until a definite state aid amount was provided. The debate over statewide minimum standards continued and actually came to a vote and was passed by both houses of the legislature during this period. And, most significantly, on July 1, the day the schools were scheduled to be shut down, the department was required by law to begin implementing the new T&E planning process. Figure 1 contains a chronology of events of this period.

The Court's Injunctive Order

As the confusion over state aid continued, in a letter dated February 10, 1976, Commissioner Burke explained to school business administrators and other local officials that he and Governor Byrne were concerned over lack of specificity in the ruling (January 30, 1976) of the New Jersey Supreme Court which declared the Public School Education Act constitutional only if it were fully funded. In its decision, the court emphasized that "if the legislature did not fully fund the act by April 6, 1976, it would order a hearing to determine what injunctive or other relief would be appropriate and necessary."[126] Burke informed local officials that on February 9, 1976, the governor had submitted a Motion for Modification of Judgement to the Supreme Court "which cites the chaotic conditions existing in education as a consequence of the funding indecision and the need before April 6 for more definitive directions."[127] The governor requested that the court modify the January 30 judgement by immediately issuing a show cause order with regard to the

FIGURE 1

CHRONOLOGY OF "CRISIS WITHIN A CRISIS"

May 13, 1976 to July 20, 1976

May 13	New Jersey Supreme Court issued injunction order to close the schools unless the state legislature remedies the unconstitutional method of financing public education by July 1, 1976.
May 17	Memo from the Commissioner of Education to the members of the State Board of Education, Assistant Commissioners and Division Heads explicating the court order, assessing its immediate impact on educational activities, and noting that clarification of the injunction will be sought.
May	Emergency meeting of the State Board of Education to review court decision and raise relevant issues (referred to in the agenda of June 3rd meeting of task force.)
June	Meeting of Princeton Group which raised questions for clarification and discussed impact of closing.
June 3	Governor's Citizen Task Force on the July 1 School Crisis met for the first time.
June 4	A document prepared by the department of education which explicated the impact of the injunction was released.
June 7	Commissioner Burke met with Attorney General Hyland to discuss the gravity of the situation and the uncertainty facing local school districts.
June 8	Elizabeth Board of Education petitioned U.S. Supreme Court to order a stay of the N.J. Supreme Court injunctive order.
June 9	Letter from Commissioner Burke to Attorney General William F. Hyland requesting an interpretation or clarification of the court order.

FIGURE 1 (CONT.)

June 10	New Jersey Public Television presented a live 90-minute special dealing with ramifications of the New Jersey Supreme Court decision. Governor Byrne and Commissioner Burke answered questions posed by legislators.
June 10	Commissioner Burke received letter from Attorney General Hyland containing Special Educational Financing Opinions 1-9.
June 11	The U.S. Supreme Court refused to issue a stay of the injunctive order.
June 11	Memorandum from Commissioner Burke to Administrative Principals, County Superintendents, Secretaries/School Business Administrators, and Superintendents of Schools containing: (1) copy of Burke letter of inquiry to Hyland and (2) Hyland's letter to Burke containing nine opinions.
June 11	Governor's Citizen Task Force met for the second time.
June 15	Supreme Court issued an order regarding the payment of principal, interest and redemption of school bonds.
June 15	Commissioner Burke received memorandum from Attorney General Hyland containing Special Educational Financing Opinions 10-13.
June 16	Department of Education established School Crisis Hotline for the use of school officials and school board attorneys.
June 17	Memorandum from Commissioner Burke was sent to Administrative Principals, County Superintendents, Secretaries/School Business Administrators and Superintendents of schools containing Supreme Court order of June 15 and Attorney General Opinions 10-13.
June 17	Commissioner Burke received memorandum from Attorney General Hyland containing Special Educational Opinions 14-18.
June 17	Commissioner Burke submitted Final Report of the Citizens Task Force to the Governor.

FIGURE 1 (CONT.)

June 17	Commissioner Burke sent Final Report to Members of the Governor's Task Force on the July 1 School Crisis.
June 17	Senate passed an income tax.
June 18	Commissioner Burke received memorandum from Attorney General Hyland containing Special Educational Financing Opinions 19-20.
June 21	Senate approved state budget. It does not contain funds to meet courts educational mandate.
June 21	Assembly rejected income tax package by a vote of 77-2.
June 22	Conference Committee was established.
June 22	Commissioner Burke and Klein received memoranda from Attorney General Hyland containing Special Educational Financing Opinion 21.
June 22	Letter from Commissioner Burke to the Governor containing addendum to Final Report reflecting changes therein as a result of recent Attorney General Opinions.
June 22	Memorandum from Carolyn Holmes and Jane Holub to Art Winkler containing deletions from *Impact Statement* as a result of the Attorney General Opinions 1-17.
June 22-23	Court actions were filed; including School Boards Association suit seeking a stay of the injunctive order.
June 23	Commissioner Burke received memorandum from Attorney General Hyland containing Special Educational Financing Opinion 22.
June 25	Memorandum from Attorney General Hyland to Commissioners Hoffman and Burke containing Special Educational Financing Opinion 23.
June 28	Meeting of Emergency Services Unit. Emergency Services Unit issued a series of six memoranda from June 29 through July 14.

FIGURE 1 (CONT.)

June 30	Legislature failed repreatedly to pass an income tax.
June 30	Panel of Federal District Court Judges refused to intervene in the litigation.
June 30	Commissioner Burke held a series of meetings with all members of the Department of Education to provide employees with information concerning their rights and benefits related to unemployment insurance.
July 1	Education system is closed.
July 1	State Board of Education met in an emergency session passing three resolutions one of which "exhorts each local board of education in this state to strictly adhere to the requirements of the order."
July 1	Commissioner Burke held a press conference to clarify issues relevant to the crisis.
July 6	Governor's Citizen's Task Force met for third time in emergency session. Responsibility of the task force shifted from assessment of consequences of school closing and formulation of contingency plans to the actual implementation of the plans.
July 7	Commissioner Burke and selected staff met with Acting U.S. Commissioner of Education William Pierce to determine the status of a number of federally involved programs.
July 8	Legislature passed an income tax.
July 9	N.J. Supreme Court dissolved injunctive order.
July 11	Subcommittees of the Governor's Citizen Task Force issued final report.
July 20	Letter from Commissioner Burke to Governor Byrne expressing praise for the work of the task force and noting that the task force had completed its charge.

imposition of certain remedies which would be imposed if the legislature failed to act by April 6.

On February 19, 1976, the N.J. Supreme Court responded to the governor by issuing an order to show cause. Parties had until March 15, 1976 to respond. The court directed all parties to show cause why the court should not effectuate one of a number of remedies, four of which were included in the order. The four remedies considered by the court were:

A. pro-rate the money available under existing revenues for state aid using the new distribution formula contained in the Public Education Act of 1975;

B. direct the Commissioner of Education "to calculate an average State school tax rate by dividing the total of all school budgets for the entire state (as approved by the Commissioner), less any moneys appropriated by the legislature for school aid, by the total equalized assessed valuations of all ratables within the state";

C. "order the state Treasurer to fund the 1975 Act in full using all funds in the state treasury not needed to meet constitutional functions of government..."; and

D. "injoin the distribution of all state aid for public education or the raising of money by local taxation for the support of public education, or both."[128]

Ten briefs were filed in response to the show cause order.[129] Most of the briefs responded specifically to the alternative remedies articulated by the Court in the order. The arguments were mixed. Some of the briefs argued that the court's remedial power included the authority to implement each of the remedies described in the order[130] while others, such as the brief submitted by the assembly, argued the opposite view.[131] The urban interest groups argued for broad remedial powers and offered remedies designed to rectify injustices visited upon the poor urban school districts.[132] The SDOE, NJEA and the NJSBA argued for full-funding of the new act. The NJEA argued that all the options were inadequate and suggested that option B would be acceptable only if it were modified to provide for a statewide school property tax not dependent on budgets adopted by local school districts.[133] The SDOE and the NJSBA argued for option C suggesting that it was the only alternative that would fully fund the 1975 Act.[134] Most of the other briefs opposed option C. The NJEA suggested that option C would disrupt many essential services provided by the state. The Attorney General referred to it as "an extraordinary exercise of judicial power." The assembly noted that the court would in effect be serving as a "super legislature."

The briefs argued overwhelmingly against a negative injunction, option D. Commissioner Burke noted that it would penalize the children. The senate brief suggested that it was an appropriate exercise of judicial power but emphasized that it was potentially the most destructive of the state's educational system. The School Boards Association noted the harmful impact it would have on vital educational programs. In contrast, the governor's brief argued that a negative injunction might stimulate action by the appropriate branch thereby prompting legislative remedies. It did note, however, that such an injunction should be directed only against local taxation.

Despite arguments to the contrary and the admonitions regarding the disruptive and harmful effects, the court issued an injunctive order on May 13, 1976:

> On and after July 1, 1976, every public officer, state, county or municipal, is hereby enjoined from expending any funds for the support of any free public school--- This injunction will not become effective if timely legislative action is taken providing for the funding of the 1975 Act for the school year 1976-1977, effective July 1, 1976, or upon any other legislative action effective by that date providing for a system of financing the schools in compliance with the Education Clause of the Constitution.[135]

In issuing the order, the court emphasized that the legislature had not met its constitutional responsibility regarding the financing of public schools. It recognized the compelling force of Professor Cox's assertion that an injunctive order is no answer to the dilemma created by the legislative inaction.[136] However, the court pointed out that Professor Cox was quick to add that "[n]ot to act would be to recognize judicial futility."[137] The court seemed to suggest that further tolerance of legislative inaction in this case would be to admit to judicial futility. In a note, the court argued:

> ...injunctive relief, a traditional remedy, can hardly be thought of as the product of unwarranted judicial "activism" in light of the history of this litigation or in contrast to the other remedies alluded to in our February 19, 1976, Order to Show Cause -- our reluctance to issue it is far outweighed by the necessities of the situation before us.[138]

Consequently, the court felt that the need to stimulate legislative action regarding a constitutional method of financing public education outweighed the potential harmful effects on the educational system and the school children of the state.

The Income Tax Debate Intensifies

The uncertainty over the lack of funding and the conflict over the income tax made for a turbulent and stressful environment within which the state department of education tried to make its final preparations to implement the new education act. The act was unconstitutional unless the legislature, in effect, passed an income tax. Moreover, the pressure which the court was applying in an effort to induce legislative action involved the closing down of the school system on July 1, the day when the new act was to be implemented.

Action and debate over the income tax was to a large extent contingent upon what was going on in the judiciary regarding efforts to prevent the closing of the schools. Throughout this period there were court suits pending before the New Jersey Supreme Court, the U.S. Supreme Court, and the federal district court which tended to inhibit legislative debate. The legislators were constantly looking to the courts in the hope that they would somehow "take the monkey off their back."

The New Jersey School Boards Association initiated the first action after the injunctive order was issued on May 13, 1976. They presented a motion to the New Jersey Supreme Court emphasizing the damaging effect the school closing could have on the educational system and asked the court to modify its school closing order or find another solution. On June 3, 1976, the New Jersey Supreme Court rejected their motion.[139]

Six days after the court issued its injunctive order the Senate voted down an income tax proposal. It was the sixth time the senate had rejected an income tax, having recently rejected the income tax package which the assembly adopted in March. A couple of weeks later, well into the crisis within a crisis period, a reporter for The Trentonian described the atmosphere in the senate as anything but stressful and anxious:

> If the state senate is starting to get jittery about its approaching showdown with the New Jersey Supreme Court, you couldn't tell it yesterday. The senate chamber was anything but charged with a sense of urgency. The usual atmosphere of private club-like tranquility seemed to be prevailing.[140]

The Board of Education of Elizabeth, New Jersey, became quite concerned over the state of affairs in early June. On Tuesday, June 8, the board brought a motion before Justice William Brennan, Jr. requesting a federal stay of the N.J. Supreme Court ruling which enjoined all educational spending in New Jersey after June 30. The board's attorney noted that they sought relief in the federal courts "because we do not believe the legislature will act, and because the state Supreme Court has refused to select another means of solving the school funding crisis."[141] The petition argued that the injunctive order shocks the conscience of New Jersey citizens, offends all canons of decency and fairness, and violates the due process clause of the Fourteenth Amendment. Declining to rule on the motion himself, Brennan referred it to the full U.S. Supreme Court. On June 10, the nine-member Court rejected the request to intervene in the state's school closing crisis. The Court simply said: "The application for a stay of the judgement of the Supreme Court of New Jersey presented to Mr. Justice William Brennan and by him referred to the Court, is denied."[142]

Many state legislators viewed support of the income tax to be an unpopular position, especially Republicans from conservative districts. They had hoped that the U.S. Supreme Court would act to prevent the school closing which would relieve much of the pressure on them. In the days immediately following the High Court's rejection, talk of an income tax, and specific forms it might take, increased. Discussing the prospects for an income tax in the senate on June 12, Senator Stephen Wiley (D-Morristown) claimed that 19 senators were ready to support a 1.5 percent flat tax. He said "I think it's going to work out... The (U.S.) Supreme Court decision means a lot. It cuts off the avenues of retreat some people have been counting on."[143] Commissioner Burke who had spent considerable time trying to impress upon the legislature and the public the urgency of the situation, reacted to the Court's ruling, claiming that "the time for delay, the time for postponement, has got to be over."[144]

Several hours after the U.S. Supreme Court ruling, the 31-member Republican minority in the assembly announced that it had hired a Newark law firm to file a motion challenging the injunctive order in the U.S. District Court. They emphasized in their statement that their sole aim was "to avoid the spectacle of a government denying to its citizens the fundamental right to a free education."[145] In the opinion of several observers, the Republicans seemed intent on keeping the back door open.

On the evening of June 10, 1976, in a dramatic 90-minute special report, New Jersey Public Television broadcasted a live discussion on the school closing crisis. Attorney General William F. Hyland and Commissioner of Education Fred G. Burke discussed the various dimensions of the injunctive order and responded to questions posed by a panel of 26 legislators. Burke felt that it was his responsibility to emphasize that the impact of the school closing would be both immediate and serious. Burke emphasized some of the immediate consequences:

***88,000 children will be denied summer school

***4,300 senior high school students will be denied the necessary credits they would have obtained in summer school for graduation

***35,000 educationally deprived students will be denied summer remedial instruction

***2,000 migrant children will not receive instruction

***61,000 high school students will be deprived of $5.5 million in income from cooperative education work programs

***1,400 handicapped children will not receive special instruction

***50,000 adult education students will be forced to defer further coursework

The 40-member senate needed 21 votes to pass an income tax. In May, 1976, they rejected a 1 billion income tax plan passed by the assembly which included substantial property tax relief. After the U.S. Supreme Court decision, the senate began to seriously consider a scaled down version of the income tax proposal passed by the assembly. In a caucus of senate Democrats on June 10, support for this scaled down tax plan -- 1.35% tax on gross income earned in New Jersey -- began to congeal. This tax would yield $450 million which would be dedicated to education. It did not include any funds for property tax relief. Opponents of the income tax were being moved by the increasingly real possibility that the schools would be closed unless the legislature acted. As one staunch opponent of the income tax, Senator Thomas Dunn (D-Elizabeth), put it: "I can't support an income tax...but if the only possible way to keep the schools open is with an income tax, I've got a hell of a dilemma."[146] On June 13, 1976, as the "mini-income tax plan" gained increasing support, Senator Dunn, who had played a large role in initiating the action by the Elizabeth Board of Education, recognized that the U.S. Supreme Court decision had dealt the opposition to the income tax a very serious blow. He observed "I've lost all my ammunition."[147]

One of the problems confronting the income tax was a philosophical rift among its supporters. The assembly package included a property tax relief proposal. Some supporters argued that it would be a serious error to pass an income tax without property tax relief. Others argued that "if we have to pass an income tax, it should be the smallest possible tax with the least effect on the paycheck."[148] The problem confronting the leadership in the senate was to somehow integrate these two factions to get the 21 votes needed to pass the income tax.

On June 17, the senate passed an income tax bill which would tax 1.5 percent of gross income and raise approximately 500 million, with 378 million earmarked for education. On June 21, with uncharacteristic speed, the assembly rejected the senate plan overwhelmingly (77-2). The senate had so completely whittled down the assembly tax reform plan that even some of the strongest proponents of an income tax in the assembly spoke and voted against the measure. The assembly could not accept the scaled down plan. They wanted property tax relief and tax reform to be an important part of any income tax plan they adopted.

At this point, the legislature was stalemated. A conference committee consisting of three senators and three assemblymen was established to break the two year old deadlock over the income tax. The senate President appointed Senators John J. Horn (D-Camden), Frank Dodd (D-West Orange), and Raymond H. Bateman (R-North Branch) to the conference committee. There was considerable disagreement in the assembly over its representation on the committee. Assembly Speaker, Joseph A. LeFante (D-Bayonne) appointed Assemblyman Daniel F. Newman (D-Brick Town) and Martin A. Herman (D-West Deptford). LeFante asked assembly minority leader Thomas Kean (R-Livingston) to recommend a Republican representative. Kean recommended Clifford Snedeker. LeFante refused that recommendation pointing out that he had promised to appoint only individuals who had previously voted in favor of the income tax. Kean would not recommend anyone else.

The five members of the committee met that same afternoon on June 21 to begin to fashion a compromise package which could win a majority of the votes in both houses. Republicans were not very hopeful. Senator Raymond Bateman noted that: "In the senate, there are so many inflexible positions that it is hard for me to compromise on an income tax. Today I'm less hopeful than I have ever been."[149] In the assembly, minority leader Thomas Kean observed that "I've been pessimistic the last couple of weeks, and I'm just not sure this legislature can deal with the problem."[150]

The assembly's rejection of the senate plan prompted a number of court actions which were designed to prevent the closing of the schools. The assembly leadership had hoped to bring a tax proposal to the floor for a vote by Friday, June 25. However, the suits filed in federal court during that week and the possibility that the court would act to prevent the school closing, dealt a serious blow to any serious consideration of the tax proposal in the assembly.

On June 22, three suits were filed in U.S. District Court before Judge Clarkson Fisher. The New Jersey School Boards Association brought suit questioning the constitutionality of the New Jersey Supreme Court's remedy under the U.S. Constitution. The SBA claimed that the order violated the rights of equal protection and due process and deprived school children of their fundamental right to an education. Lawrence Schwartz, President of the SBA, was concerned about legislative delay and urged that "the legislature not view our action as an alternative to their responsibility."[151] The SBA expressed their reluctance to bring the action, hoping that it would not be necessary. However, with the stalemate in the legislature, they felt that the timetable imposed by the state supreme court was getting dangerously close.

The Borough of Sayreville, in a separate action, and the Boards of Education in Seaside Heights, Englishtown and Holmdel, in a combined suit, also petitioned in the federal courts. Like the SBA, they sought a stay of the school shutdown order. Their actions also challenged the original finding in Robinson v. Cahill and sought to void all of the state court decisions of the past four years.[152]

On June 24, U.S. District Court Judge Lawrence A. Whipple announced that all ten judges of the district court would participate in an extraordinary hearing on Wednesday, June 30, to consider the actions before the court. It was also announced that arguments would be limited to the remedy imposed by the New Jersey Supreme Court. The court would not consider the question as to whether or not the state courts overstepped their authority in ruling the existing method of financing public education unconstitutional.

Also on June 24, after the announcement by the U.S. District Court, U.S. Attorney Jonathan Goldstein announced that he would file a suit in U.S. District Court on behalf of the children of New Jersey. Goldstein claimed that the schoolchildren were being held hostage by the New Jersey Supreme Court: "It is not right to use the children of this state to impose a tax policy...the (Supreme Court) has the potential to destroy our schools."[153]

On Saturday, June 26, the Republican minority in the assembly announced that they would file a suit on Monday, June 28, in Newark federal court in an effort to avoid the closing of the schools. Minority leader Thomas Kean suggested that the suit would argue that the threatened shutdown "violates the federal constitutional guarantee to a minimum level of education." Kean noted that: "We in the minority feel strongly indeed that any disruption in the state's educational system would be catastrophic."[154]

Meanwhile, the senate and assembly leadership in the legislative conference committee worked long hours to devise a compromise package. The committee considered three plans: (1) a 1.5 to 2.5 percent graduated tax on adjusted gross income which would yield revenue that would provide 378 million needed for school aid, as well as enough to provide tax rebates for homeowners and tenants; (2) a flat 2 percent income tax which would pay for the school funds with the same provisions as the graduated tax plan; and (3) a 1 cent increase in the sales tax which would not raise enough money to pay for state school aid.[155]

The legislative leadership had hoped to bring a proposal before the assembly floor on Friday, June 25. The various court actions inhibited their efforts. The Trenton Times reported that the immediate impact of Goldstein's intervention in the state's crisis was to destroy efforts by the state assembly to bring an income tax plan to a vote. Assembly majority leader William Hamilton (D-Middlesex) noted that "the possibility of the court ordering a stay is a hurdle for us" and Assembly Speaker Joseph LeFante (D-Hudson) emphasized that "This federal situation is creating a cloud of doubt around here second to none."[156] Governor Byrne viewed the actions by Goldstein and the Republican minority as a delaying tactic which potentially could obviate the pressure for legislative action on the income tax. He noted that "any legislator who wants to use this as an excuse not to face up to responsibility can do it." He went on to emphasize that: "It is not fair for all school children to keep the schools open in the way they have been operating. The courts of New Jersey said it is not fair, not constitutional, and the legislature has recognized that by passing a new school formula."[157]

Governor Byrne and Attorney General William F. Hyland announced over the weekend that they would oppose federal court intervention in the state's crisis. They would argue before the panel of U.S. District Court judges that the lower federal courts have "no power whatsoever to sit in direct review of state court decisions when there is no federal constitutional right being violated."[158] They emphasized that the U.S. Supreme Court had already refused to stay the state court's injunctive order. The commissioner of education was ambivalent about Governor Byrne's position against federal intervention, especially if such intervention could potentially keep the schools open. In refusing to endorse Byrne's position, Commissioner Burke emphasized that "I want more than anything else to have the schools open."[159]

On June 30, the U.S. District Court ruled that the constitutional right to a public education has never been established and refused to prevent the state court's school closing remedy. Ignoring the arguments made by the School Boards Association that the closing would cause irreparable damage to students, the District Court, in a 9-2 opinion, ruled that it could find no clear mandate on which to act. The majority emphasized that they would not use "federal power to perpetuate what is most clearly an unconstitutional New Jersey public school system."[160]

In dissent, Judge Lacey found it incredible that the state's highest officials would argue for the indefinite closing of the state's public schools. He argued strenuously in apparent denunciation of the state supreme court, Governor Byrne, and Attorney General William F. Hyland, that the school closing was politically motivated:

> Let's get realistic. The executive branch of the government of this state went to the judiciary in this state and asked for the school closing order so that, in the words of Supreme Court Justice Pashman, enough heat could be put on the Legislature to force it to do its constitutional duty.[161]

Governor Byrne defended the N.J. Supreme Court and the injunctive order claiming that "The Supreme Court, in my opinion, did not decide to close the schools. It decided to move the legislature."[162]

The assembly had delayed action on the income tax proposal pending a decision by the federal court. The court decision came at 4:00 PM on June 30, just eight hours before the deadline imposed by the New Jersey Supreme Court. Immediately after the court's decision was announced, the assembly began a frenetic effort to pass an income tax before the midnight deadline. At 10:00 PM, the assembly defeated the flat 2% income tax proposal by a vote of 16 to 59.

In the legislature, the bickering over various aspects of an income tax plan continued. Several reporters covering the debate in the legislature pointed out the lack of a crisis atmosphere in the assembly. One reporter noted that it is hard to maintain a sense of crisis over an extended period of time. Another reporter noted the air of frivolity that pervaded the debate up to this point noting a rather "sick joke" that had become ill with over use in the halls of the legislature:

> They'll be writing about this day in history books 100 years from now -- but it won't make any difference. The kids in New Jersey won't be able to read by then.[163]

The decision by the federal court not to intervene and the actual closing of the schools on July 1 imposed, in rather dramatic fashion, a much more compelling situation on the legislature. In the assembly, the debate disintegrated into an effort to devise amendments which were used to attract needed votes. After four days of nearly continuous session, on July 8, the assembly passed a 2 to 2.5 percent income tax on adjusted gross income by a vote of 41-36, the minimum vote needed for passage. The measure would raise 775 million dollars, 378 of which would go to state aid for public schools. The remainder would be used for revenue sharing with municipalities and for various forms of property tax relief for homeowners, tenants and the elderly. Budget caps were also established which limited county and municipal spending increases to 5 percent a year. Finally, in order to get needed Republican votes, a self-destruct measure was included which meant that the income tax would self destruct in July, 1978, unless the legislature acted to retain it.

On July 9, after the senate adopted the same plan, the supreme court lifted its school closing order. Undoubtedly, the school closing crisis was the critical factor which provided the pressure necessary to get the tax passed. As one reporter put it, a number of senators were reluctant to vote for the plan approved in the assembly. She suggested that "Few senators who voted for the package last night hailed it as a significant tax reform measure. Many voted for it reluctantly just so the schools could reopen."[164]

The SDOE and the School Closing Crisis

The state legislature in New Jersey was preoccupied with the income tax issue for two years. The threat of closing the schools caused increased tension and perhaps a bit more confusion; however, standard operating procedures in the legislature were not disrupted. The legislative actors felt increased pressure to act but as several reporters characterized the atmosphere in the state house, even during the critical hours surrounding the school closing, there was no sense of crisis or panic.

The real crisis, the real sense of panic, was felt by educators at the state and local levels who had to deal with the unprecedented closing of an entire statewide school system. The press picked up this difference in the perceived sense of crisis. The Philadelphia Inquirer reported:

> The relative lack-of-crisis atmosphere in the State house could not be found anywhere in the education building, where employees worked mostly in muted silence occasionally passing on or squelching a rumor about what was going on in the court and legislative halls.[165]

The New York Times emphasized that the real crisis was at the local level, the point of contact in the educational delivery system between the deliverer of the service and the client. To them, the crisis was one of the first magnitude.

> In fact, the real crisis was not here. Rather, it was in the more than 600 public school districts throughout the state that faced a shutdown. School administrators stayed by the telephone. Teachers faced with abrupt unemployment tomorrow and students barred from classrooms wondered whether to return tomorrow.[166]

Unlike the legislative decision process which is more short term, immediate, and issue-oriented, the educational bureaucracy is concerned with the delivery of educational services over the long run. Educators must live with policy decisions made in the legislature. The next day, state legislators will often move on to face decisions of a completely different nature involving issues in different functional areas -- transportation, housing, etc. Educators, on the other hand, are concerned with the effective and efficient delivery of educational services to the citizens of New Jersey. They cannot leave policy decisions behind for others to deal with. They must live with constraints imposed by budgetary decisions made in the legislature as well as with decisions made during the crisis. Consequently, it is not surprising that the education community felt the urgency of the moment a bit more intensely than other state governmental actors. It was their "home" that was being held on the brink and they would have to live in it after the confusion and the disruption of the crisis subsided.

Education in New Jersey experienced considerable turbulence since the court's initial ruling in Robinson v. Cahill. The department of education and other state educational organizations went through a period of coalition redefinition as a consensus emerged around a process approach to defining equal educational opportunity. As the SDOE prepared to implement the new T&E process, urban interests posed a fundamental challenge to the newly-established direction in education by pushing for the inclusion of an outcome measure in a process educational system. The debate over statewide minimum standards caused considerable stress within the recently established education coalition and within a department which was undergoing a process of reorganization. The fiscal crisis and the need for additional state revenue caused chaos in the educational budgetary process since there was no clear cut state aid figure upon which to base local budgetary decisions. These uncertainties came to a head during the crisis within a crisis period and contributed significantly to the sense of panic and urgency which very clearly enveloped educational decision-making during the period.

As suggested earlier, the court's injunctive order precipitated a "crisis within a crisis." The order engendered three very distinct sources of uncertainty which the SDOE had to address: (1) the vicissitudes of the income tax debate, (2) the threat of the schools being closed, and (3) the interpretation of the order and the exceptions contained therein.

With the school closing threat posed by the New Jersey Supreme Court, the debate over the income tax became much more serious in the state legislature. The bargaining over the income tax constrained decision processes within the department. The various tax plans and the differences in revenue for education which they might produce was a constant concern. The role of the courts, especially the federal courts, clearly disrupted the bargaining process inhibiting the ability of legislative leaders to fashion a compromise solution. The history of legislative inaction made the actual closing a very real possibility, one which the SDOE had to prepare for. The court's injunctive order contained a number of exceptions which meant that certain activities could continue while others had to be terminated. This caused considerable confusion as the department of education and county and local offices waited for opinions issued by the Attorney General's Office interpreting the court's order as to which activities specifically could continue and which could not.

The Commissioner and senior staff of the department were in the final stages of preparing to implement the new T&E model. Their preparation for the implementation of T&E was inhibited by the uncertainties associated with the debate over statewide minimum standards and the budgetary confusion caused by the uncertainty over state aid. Their capacity to prepare for the implementation of T&E was further reduced by the uncertainty associated with the court's injunctive order. What role should they play in the debate over the income tax? How seriously should they prepare to close down a system on the very day when they are supposed to begin implementing significant changes in that system? Finally, given the exceptions in the order, which aspects of the system should actually be closed and which activities could continue?

The commissioner and departmental senior staff made the key decisions in response to the above questions. They considered the demands posed by the uncertainties identified above. They had no control over the vicissitudes associated with the income tax. Clearly, they wanted additional funding for education. However, there was little the department could do organizationally to respond to the demands associated with the income tax issue.

The SDOE could and did fashion responses to the demands associated with the threat to close down the schools and the exceptions included in the injunctive order. The organizational response involved the creation of a number of communication networks. These networks will be examined in this section. It should be kept in mind that these networks were in operation while the debate over the income tax was at its peak and while the department was in the final stage of its preparation for implementing T&E.

Attorney General Opinions and the Legal Network: The New Jersey Supreme Court included a number of exceptions to the injunctive order. The order did not apply to:

1. Payment of principal, interest and redemption of existing school bonds, anticipation notes and like obligations.
2. The cost of maintenance and security of school properties.
3. The payment of contractual obligations for capital construction, necessary repairs and like expenses necessary for the protection of school properties.
4. Contributions toward teachers' pensions.
5. Payment of existing obligations for Blue Cross, Blue Shield, social security and similar commitments.
6. Payment of all insurance premiums.[167]

It was suggested that clarification of the order could be made directly to the court.

Shortly after the order was issued, a spokesman for Attorney General Hyland suggested that "the Attorney General believes the court order is sufficiently clear so that there may be no need to ask the court for further clarification."[168] Commissioner of Education Fred Burke disagreed with Hyland. An aid to Burke noted that "we're getting an awful lot of questions from people in the local districts and we can't answer them, even though they have to have the answers pretty quickly."[169]

The exceptions engendered considerable turmoil. School districts were confused over which activities were covered by the order and which were not. The department was inundated with hundreds of telephone calls raising specific problems and questions. In clarifying the court's order, the Attorney General issued twenty-nine decisions periodically between May 13 and June 30, 1976.

On May 17, Commissioner Burke sent a memorandum to members of the State Board of Education and his senior staff explaining which activities would be affected by the order. He noted that the department had made an assumption that the order be construed broadly and identified the following educational activities which would be terminated as of July 1, 1976:

1. All public schools in every school district
2. All vocational school districts
3. All special service school districts
4. Kindergarten and pre-kindergarten programs and day care centers
5. Accredited evening high schools
6. Schools for foreign born
7. Adult evening vocational schools
8. Approved summer schools; summer Cooperative Industrial Education programs and Distributive education programs
9. Non-approved summer schools
10. Adult basic education programs
11. G.E.D. programs (high school equivalency)
12. Katzenbach School for the Deaf
13. Millburn School for the Hearing Handicapped
14. Project Co-Ed
15. Newark Skills Center
16. Job Corps Center
17. Educational Improvement Centers (EIC)
18. Migrant children summer programs
19. Bilingual Education summer programs
20. Handicapped pupils enrolled in special education day programs in private schools

21. Aid to nonpublic schools (transportation and textbooks)
22. County and audio-visual aid commissions
23. Services supplied to local school districts by State Library
24. Services supplied to local school districts by State Museum[170]

Burke also noted that many questions had been raised regarding the six exceptions. Some of the questions could be answered by the department. Others had to be submitted to the supreme court for clarification.

On June 7, 1976, Commissioner Burke met with Attorney General Hyland to explain that many urgent questions had been raised by the 611 school districts. Many urged the Commissioner to seek clarification of the order.[171] The Commissioner emphasized that organizations such as the Elementary School Principals, Secondary School Principals, School Business Officials, School Boards Association, and the New Jersey Congress of Parents and Teachers had also implored him to seek clarification.[172] Commissioner Burke was advised that questions concerning the order should be submitted to the attorney general "which should expedite the process of clarification."[173]

On June 9, 1976, the Commissioner forwarded a twelve page memo to the Attorney General raising questions about the operation of local school districts and the state department of education under the order. The questions essentially addressed the extent to which planning and administrative activities would be permitted. The attorney general was encouraged to provide opinions to the department so that they could be quickly transmitted to local school districts.

The legal network was established to deal with the demands associated with the uncertainties over the exceptions contained in the court order. The senior staff involved with the Commissioner included: Assistant Commissioner Joseph Zach, Division of Controversies and Disputes; Deputy Commissioner Ralph Lataille; and, Assistant Commissioner Vincent Calabrese, Division of Administration and Finance. The county superintendents collected questions from their districts and transmitted them to the deputy commissioner's office, their normal reporting channel, or to Joseph Zach. The Division of Controversies and Disputes established a "hotline" designed to facilitate the response to questions by local and county officials. Zach noted that many of the questions were similar and could be categorized and answered by general policy pronouncements. The Division of Controversies and Disputes consolidated these questions and formulated inquiries to the attorney general. Some questions were handled within the Division of Controversies and Disputes but many were forwarded to the attorney general.[174]

Joseph Zach, a lawyer, was in continuous communication with the attorney general's office advising them on the possible implications of their opinions.[175] In writing their opinions, the attorney general's office queried state after state and conducted a legal search for precedents.[176]

On June 10, 1976, the Attorney General issued the first nine "Special Educational Financing Opinions." Twenty more opinions were issued during this period on June 15, 16, 17, 18, 22, 23, 25, 28, 29 and July 2. The opinions were directed to Commissioner Burke and transmitted to the county offices and school districts via the operational network established in the deputy Commissioner's office. (The Special Educational Financing Opinions were quite lengthy: a summary of each of these opinions is contained in Appendix III.)

These periodic opinions by the attorney general conditioned much of the activity in the department and at the local level. Education officials were preoccupied with determining which programs and activities could continue. Arthur Winkler, Special Assistant to the Commissioner with a legal background, and Joseph Zach interpreted the construction of the Attorney General Opinions to fit particular circumstances.[177]

In summary, any operation which dealt with classroom activities during the summer or with planning for the reopening of the schools in the fall was forbidden. Activities related to completion of the 1975-1976 school year, including the preparation of reports, audits and student transcripts, could continue. Recreational and other programs conducted at the schools could continue as long as they were noneducational and sponsored by municipalities, not school districts. The court order and the Attorney General Opinions emphasized that sufficient staff were to be maintained to keep the schools clean and secure.[178]

Emergency Services Unit: On June 18, Attorney General Hyland issued an opinion (#18) requiring that most operations of the State Department of Education and its 21 county offices and 4 regional Educational Improvement Centers be terminated on July 1. Since earlier opinions were concerned primarily with the activity of local school districts, this ruling was unexpected and caused considerable confusion within the department. It was emphasized that since some departmental staff were involved in the supervision of operations exempted from the injunctive order, "decisions as to the continued employment of each person working in the department and county offices will have to be made individually, based on the nature of his or her assigned tasks."[179] This caused concern and feelings of insecurity among the personnel of the department which inhibited departmental operations during this critical period.

On June 23, Commissioner Burke sent a memorandum to all members of the department explaining the Attorney General's Opinion (#18), pointing out that it meant that many department members would have to be terminated. On June 28, the commissioner addressed the employees of the department in a mass meeting and announced that 889 of the department's 1,458 employees would be affected by the order unless the legislature acted to fund the schools. 719 persons would be without work starting on July 1 while 170 would be phased out as they completed their work related to the record keeping of the 1975-1976 school year. 232 employees would be retained throughout the injunction to work in court-exempt functions.[180]

This period has been described as a period of considerable intensity and emotion and, in the case of those persons whose jobs were threatened, despair. The crisis was not an abstraction to many employees of the department. Many faced personal hardships, loss of jobs, and an interruption in income. There were problems such as unemployment compensation and the continuation of insurance coverage posed by the termination which had to be worked out, causing considerable personal frustration. There was the emotional trauma, experienced by some people more than others, of being evaluated in terms of one's utility to the organization's mission -- the "Why am I leaving and Joe staying" question. These frustrations and intense personal feelings gripped the department in days immediately preceding the school closing.

On June 28, the Commissioner established an Emergency Services Unit coordinated by Arthur Winkler, Special Assistant to the Commissioner. The unit was set up in a separate room on the second floor of the department and was staffed by 13 department members. The unit was established to provide an internal mechanism for responding to individual complaints and problems posed by the crisis.[181] The purposes of the unit were described as follows:

(a) Centralize, coordinate and verify information regarding the July 1 crisis.

(b) Provide uniform information for dissemination to Division Heads to be shared with all employees.

(c) Develop recommendations for procedures to implement the Court's injunction.

(d) Develop policy recommendations for the management of the pending crisis which affect the departure and return of staff employees.

(e) Provide the Commissioner and his senior staff current information on policy alternatives for decision-making.[182]

The room on the second floor which housed the Emergency Services Unit became known as the "war room." This group facilitated communication within the department and dealt with emergency problems as they arose. A hotline was established to provide timely responses to questions from departmental staff concerning the impact of the crisis. The unit provided accurate and up-to-the-minute information. Beginning on June 29, a series of daily memoranda were issued which contained important and up-to-date information regarding critical departmental activities and decisions.

The Operational Network: The county offices were established as mini-departments as part of Commissioner Burke's reorganization. The county superintendents reported directly to the office of the Deputy Commissioner. The crisis was particularly acute at the local level with the confusion over state aid and the ambivalence as to which programs would be continued and which closed down.

The Attorney General opinions, the legal network, and decisions made by senior staff provided information on an hourly, if not minute by minute, basis which was critical to the planning process at the local level. The Office of School Approvals, which worked very closely with the county offices in the new T&E model, became a dissemination unit responsible for getting timely information to county and local officials. Prior to the crisis, a telephone hotline had been created which was used to communicate critical information to the counties as rapidly as possible. Through a telephone dictating process "we can get a message out to all 21 offices in less than one and a half hours."[183] During the crisis period, this link between the department and the county offices became an important mechanism for the communication of information critical to the daily operations of the county offices and school districts.

Governor's Citizen Task Force: The school closing crisis posed by the injunctive order forced the department of education into a process of planning for the "shutdown" of the state's entire educational system. A Citizen's Task Force was established to help the department prepare for this very undesirable but real possibility.

On May 27, Governor Brendan Byrne announced plans to establish a task force to help develop plans for dealing with the closing of the schools. The Governor, with advice from Commissioner Burke, chose recognized leaders from educational and non-educational interest groups to serve on the special task force. In a telegram to each of the prospective participants the governor explained:

> Mindful of the Court's instructions and in recognition of the potential harm which could accrue to the education of our young people in the face of legislative inaction, I have asked Commissioner Fred G. Burke to chair a panel of concerned citizens to assist the State Department of Education and the State Board of Education in developing contingency plans and evaluating the consequences of the court order taking effect on July 1.[184]

The urgency and seriousness of the school closing crisis though strongly felt within the education community was not widely recognized by the public or the members of the legislature. Appointing a task force comprised of recognized leaders was viewed as a way of dramatically emphasizing to the public the importance and the seriousness of the situation confronting the state. (List of Participants on the Citizen's Task Force is contained in Appendix IV.)

On June 3, 1976, the task force met for the first time. In his opening statement, Commissioner Burke emphasized that the impact of the injunction was devastating for New Jersey students and educational personnel. The Commissioner noted the widespread misconception that the impact of the injunction would not be felt until September and stressed that the impact would be immediate and serious. (See Appendix V for a detailed discussion of the impact.)

Burke emphasized that "our job as a task force is to explore what can be done to provide New Jersey school students with whatever services are legally possible under the court's injunction should the schools be forced to close on July 1."[185] The task force would also evaluate the consequences of the imposition of the court order and assist the State Department of Education in developing contingency plans.

The task force met twice during the period prior to the closing, on June 3 and June 11. The task force established four subcommittees designed to address the most critical problems confronting the education community. Each subcommittee spent many hours considering the various aspects of the particular problems before them and were assisted by staff members from the department who were coordinated by Sherwood Wilson.

The Communications subcommittee was chaired by Fred Hipp, Executive Director of the NJEA. The subcommittee agreed "that the major contributive problem which is inhibiting resolution of the basic funding impasse is that the public does not understand the impact of closing the schools, if the injunction is enforced."[186] The committee discussed a number of ways of informing the public, including: telethons, public and commercial T.V. and radio programs, talk shows, announcements, press programs, organization hotlines to members, "celebrity" statements, and a number of other alternatives.[187] In an effort to impress the public and relevant legislative actors with the severity of the crisis, Commissioner Burke appeared in a television special on the crisis on June 10. The NJEA and PTA sponsored daily five-minute shows on the radio called "Speaking of Schools." Press reports were released on a daily basis. And the Commissioner made a number of dramatic trips by helicopter to different parts of the state to meet with citizens and local officials to discuss the crisis and its impact.[188]

The Communication subcommittee decided not to "point the finger at the legislature for inaction nor promote any tax plan for funding." Rather, the communication effort would emphasize how the crisis had arisen, the facts of the impact, and the gravity of the situation.[189]

The impact of the school closing crisis on the urban communities was serious. Health and safety programs operated by the schools would be terminated, depriving many children of essential services. A subcommittee was established to deal with the particular problems imposed on the urban communities during the hot summer months. Mrs. Elayne Brodie, Chairlady of the Central Parents Council in Newark, was asked to chair this subcommittee. In a rather dramatic expression of the vital role which the schools play in urban districts, Brodie launched a tirade during the first meeting of the task force refusing to participate in any consideration of alternatives to the schools. In her view, there just were no alternatives. She emphasized "that the safety and life of every child would be endangered if the security, normally provided by the schools, is lost."[190]

Chaired by Jerome Pollock, President, Fairleigh-Dickinson University, the subcommittee stressed the potential for violence and the threat to health and safety which was involved in the closing of schools in urban areas. The subcommittee suggested that a number of specific alternatives be explored which were designed to minimize this disruption.

A Subcommittee on the 1976-77 School Year was chaired by James Moran, Executive Director, New Jersey Association of School Administrators. It confronted the problem of restoring educational programming and services for the upcoming school year as well as the maintenance of federal funding requirements. The subcommittee basically assumed that for every day the schools were closed in July, the opening of schools in September would be delayed two days. A number of alternatives were offered, including the following:

1. Waive the 180 school day requirement
2. Waive the age requirement for taking the high school equivalency test
3. Contact federal agencies to augment the maintenance of effort requirements for federal funds
4. Provide a longer school day
5. Provide a longer school week
6. Eliminate vacation days.[191]

243

A Subcommittee on Summer Programs was established to deal with graduation requirements, special education programs for the handicapped, and vocational education. Chaired by Mrs. Ruth Mancuso, President, State Board of Education, the subcommittee considered the impact of the closing in these areas and offered a number of undesirable alternatives. Among other things, the subcommittee considered waiving graduation requirements for high school seniors and employing the National Guard in various roles designed to minimize the negative effects of the closing.

On June 17, Commissioner Burke forwarded the final report of the task force to the Governor. The report outlined the impact of the crisis and provided contingency plans which would be implemented in the event that the schools were actually closed. The report warned of the infeasibility of the plans:

> Contingency plans leave much to be desired. They are, for the most part, impractical and unworkable. In good conscience, the Task Force unanimously agrees that it cannot endorse many of the options it has considered. These options are, at best, stop-gap measures.[192]

(The contingency plans are listed in Appendix VI.)

On July 1, the schools actually closed and the department was forced to implement the contingency plans contained in the report.[193] The Governor's Citizens Task Force was reconvened on July 6 to help plan for the implementation of its 24 recommendations to the governor. Fortunately, the legislature passed the income tax on July 8. With a sense of relief, Commissioner Burke informed the governor that "very few of the recommendations of the Governor's Task Force were needed."[194]

The citizen's task force was viewed as a very serious exercise by many who participated, especially members of the department of education. Others, however, did not feel it amounted to very much. One educational leader suggested that it did not amount to a "hill of beans." It was criticized at one point as a "rubber stamp" of the governor and defended vehemently on television against this charge by a member of the task force, Mrs. Carl Hoff, President of the Congress of Parents and Teachers. Others viewed its role as political, designed to exert pressure on the legislature to pass the income tax. One's view of the task force and the seriousness of the exercise is determined by how seriously one took the school closing crisis. Many actors just never thought the schools would close and when they did close, they believed the schools would open soon. They viewed the task force as largely irrelevant. For those who took the possibility of the school closing seriously, the contingency planning of the task force was viewed as critical.

Summary

The school closing crisis was precipitated by an order of the New Jersey Supreme Court which was induced by the continued inaction of the state legislature regarding a new state revenue source. For the preceding two years state policy makers had experienced the conflict and tension of a crisis in public education which involved the defining of a more equitable educational system. Policy-makers also confronted a fiscal crisis which involved the mismatch between needs and resources between suburban and urban areas and a search for a new state revenue source. The injunctive order issued by the New Jersey Supreme Court threatening to close the schools posed a "crisis within a crisis." The threat of the school closing increased dramatically the stress, tension, and sense of urgency which had dominated state educational policy-making under Robinson. The court order was a critical turning point in an unfolding sequence of events. The requirement for action among participants became more compelling as the possibility of the school shutdown became an important concern to actors involved in the debate over the income tax.

The school closing crisis culminated a 41 year search for a state income tax and alleviated much of the tension and stress which the fiscal crisis had imposed on the state's policy-making process for the preceding two years. Educators, who were preparing to implement a restructured educational system, were confronted with an unprecedented situation: actions and decisions totally beyond their control could close down the system which they normally struggle to operate effectively and efficiently. Never before had a state's entire educational system been shut down. Never before had the debate over an income tax involved such ominous consequences.

The educational decision structure found itself preparing to implement a recently defined process model of equal educational opportunity in the midst of considerable environmental stress and uncertainty. In addition to the uncertainties and demands which they had confronted for the past two years, the school closing crisis posed three unique sources of uncertainty: (1) the uncertainty associated with the vicissitudes of the debate over the income tax in the state legislature; (2) the uncertainty and constraints posed by the real possibility that the schools would be closed -- the injunctive order; and (3) the ambivalence involved in the efforts to interpret the exceptions in the court order. The State Department of Education responded to this ambiguity by establishing a number of communication networks, including: a legal network, an operational network, a political network (The Citizens Task Force), an emergency network (The Emergency Services Unit), and an elite network involving daily meetings of the commissioner of education and his senior staff.

On July 9, 1976, after the legislature adopted an income tax, the New Jersey Supreme Court dissolved the injunctive order which had closed the schools. New Jersey now had an income tax. New Jersey educators now had an educational system which had weathered the storm of fiscal and educational turmoil associated with the effort to reform school financing, an effort initiated by the N.J. Supreme Court in 1972. The reformed "thorough and efficient" planning process included a requirement for statewide standards which became a reality despite the resistance of the educational establishment. The educational budgetary process remained in a state of total chaos. It was not until four months later, November 1976, that a decision regarding the actual distribution of the unanticipated state aid realized from the income tax was actually made. Much of the state aid money was distributed in the form of property tax relief, to the consternation of school district and departmental officials. The department of education was in a state of disarray. Over one thousand departmental personnel had been terminated as a direct result of the court order. It was in this setting that New Jersey educators set out to implement a reformed educational system.

Although this chapter has presented three separate stories, in fact the events in each story overlap and the issues are inextricably related. The conflict over statewide standards was most intense between January and June, 1976. The confusion over state aid for the 1976-1977 school year surfaced in November, 1975, and was not resolved until November, 1976. The school closing crisis precipitated by the injunctive order issued by the supreme court in May, 1976, was not resolved until the passage of the income tax in July, 1976. In addition to being related in that the issues were derived from the effort to reform school finance, these decision experiences exemplify the fundamental fact that the N.J. Department of Education was under considerable pressure. Educators responsible for the continued operation of the schools had to make operational decisions during a period when financial support and educational objectives were problematic.

IV

FOOTNOTES

[1] Richard Lehne, The Quest for Justice: The Politics of School Finance Reform (New York: Longman, 1978):65.

[2] This case study does not assess the nature or the extent of educational change in New Jersey as a result of school finance reform. This is an open question which will endure as the planning process is implemented. For this report, it is recognized that the crisis decision situation presented an opportunity for educational change which was resisted by the educational bureaucracy.

[3] The components of the planning process are: goal definition, needs assessment, objective setting, program development, and evaluation. It is also emphasized that the process should include broad based participation of citizens, parents, teachers, and students.

[4] Jerome Murphy, "The Role of Tests in Policymaking," Speaking Out: The Use of Tests in Policy Decisions (Princeton, N.J.: Educational Testing Service, 1977):32.

[5] Harold J. Ruvoldt, Jr., "Challenging the Effects of Educational Policy," Speaking Out: Law Education and Politics (Princeton, N.J.: Educational Testing Service, 1974):13.

[6] Ibid., 14.

[7] Ibid., 15.

[8] See Harvey A. Averch, et al., How Effective Is Schooling? -- prepared for the President's Commission on School Finance (Santa Monica, California: RAND Corporation, 1972).

[9] James S. Coleman, Equality of Educational Opportunity (Washington, D.C.: GPO, 1966).

[10] Robinson v. Cahill 62 N.J. 510.

[11] NJAC 18A.

[12] Interview with William Mathis, Director, Bureau of Assessment, N.J. Department of Education. Presently, 26 states have minimum standards statutes while 23 of the remaining 24 states have task forces established to explore the minimum standards issue.

[13] Such a linkage is premised on the belief that assessment results rather than just low income data provide a better indication of need. Congressman Albert H. Quie has argued that the distribution of Title I (ESEA, 1965) money should include a similar indicator of need.

[14] For a discussion of these limitations, see Speaking Out: Law Education and Politics (Princeton, N.J.: Educational Testing Service, 1974) and Speaking Out: The Use of Tests in the Policy Arena (Princeton, N.J.: Educational Testing Service, 1977).

[15] Peter N. Skerry, "Statewide Assessment and the Policy Process: The New Jersey Experience" (Washington, D.C.: Education Policy Research Institute, August, 1976):44.

[16] Ibid., 1.

[17] Ibid., 3.

[18] Ibid., 45.

[19] Under authority granted to the Commissioner of Education in N.J.S. 18A: 4-24.

[20] Skerry, op. cit., 8. Skerry noted that Governor Cahill viewed Marburger as part of a new generation of educational professionals who saw themselves as change agents: "They were transforming sleepy state education departments concerned primarily with rural and suburban education into aggressive agencies focusing on the exploding urban and minority crises". Also see Kenneth Pack, op. cit.

[21] Gordon Ascher, "Utilizing Assessment Information in Educational Planning and Decision-Making" (Trenton, N.J.: SDOE, Division of Research, Planning and Evaluation, May, 1973):2.

[22] New Jersey Educational Assessment Program. State Educational Assessment Programs, prepared by Center for Statewide Educational Assessment, 1973, revision.

[23] Skerry, op. cit., 3.

[24] New Jersey Educational Assessment Program, op. cit., 54.

[25] Ascher, op. cit., 3.

[26] Skerry, op. cit., 7.

[27] The NJEA was able to delay release of the results for a year and a half. However, on July 31, 1975, the State Superior Court affirmed the authority of the Commissioner to administer statewide assessment tests and to publicly release the results. Chappell v. Commissioner of Education of New Jersey, 343 A. 2d. 811 (1975).

[28] Skerry, op. cit., 31-32.

[29] The other teacher union in the state, the New Jersey State Federation of Teachers (NJSFT), the state affiliate of the American Federation of Teachers, did not share that fear. At their 1974 National Convention, the AFT endorsed educational assessment. The NJSFT did not participate in the Chappell litigation initiated by the NJEA.

[30] Skerry, op. cit., 26.

[31] A 1736 is known as the "statewide minimum standards bill" and was introduced by Assemblyman Thomas Kean on March 3, 1976. It is referred to as "An Act to amend the Public School Education Act of 1975 approved September 30, 1975 (P.L. 1975, C. 212)."

[32] Skerry, op. cit., 5.

[33] Aaron S. Gurwitz, "Urban Schools and Equality of Educational Opportunity," (Newark: New Jersey Education Reform Project, no date):8.

[34] Ibid., 12.

[35] New Jersey has a Compensatory Education Program designed for this purpose and is viewed as an important complement to the statewide minimum standards legislation.

[36] Interview with Steve Eisdorfer, Education Law Center, January 13, 1978.

[37] Ibid.

[38] Public Education Act, Ch. 212, Laws of 1975, Article II, Section 10.

[39] Interview with Paul Tractenberg, Director, Education Law Center, October 12, 1977.

[40] Interview with William Shine, Assistant Commissioner, Division of Curriculum and Construction, N.J. Department of Education, January 10, 1978. Shine is now Superintendent of Schools in Cherry Hill, New Jersey.

[41] Ibid.

[42] Ibid.

[43] Larry Rubin, "The Need for Statewide Minimum Competencies in a Thorough and Efficient Education System" (New Jersey Education Reform Project, 1976).

[44] Rubin, op. cit., 3

[45] Ibid., 4.

[46] Interview with Paul Tractenberg, Director, Education Law Center, October 12, 1977.

[47] Memorandum from Paul Tractenberg to the Joint Committee on Public Schools dated July 2, 1975, 5.

[48] Interview with Paul Tractenberg, op. cit.

[49] Memorandum dated July 14, 1975, from Commissioner of Education Fred G. Burke to the Joint Committee on the Public Schools: 10-11.

[50] Ibid., 10.

[51] Ibid.

[52] These groups included the N.J. Association of Black Administrators, the N.J. Alliance of Black Administrators, the Puerto Rican Congress, Adubalo (the N.J. Italian-American Community organization) and ASPIRA, a major Puerto Rican group.

[53] Interview with Paul Tractenberg, op. cit.

[54] Interview with representative from an urban interest group. Permission to attribute this information is being sought.

[55] Interview with Daniel Gaby, Vice President, State Board of Education, January 26, 1978.

[56] Resolution on the Establishment of the Task Force on Competency Indicators and Standards, adopted by N.J. State Board of Education, November 20, 1975.

[57] Interview with Daniel Gaby, op. cit.

[58] Position Statement, New Jersey Manufacturer's Association, Committee on Education.

[59] Newark Star Ledger, November 26, 1975.

[60] Ibid.

[61] Staff Memorandum dated November 5, 1975 to Commissioner of Education, Fred G. Burke from Gordon Ascher, William Brooks, Carolyn Holmes, William Mathis, James Swalm, William Volk, and Anne Tatum.

[62] Memorandum dated November 19, 1975, from NJERP to Commissioner of Education, Fred G. Burke.

[63] Skerry, op. cit., 21.

[64] Interview with senior staff member, Department of Education.

[65] Interview with Fred Hipp, Executive Director of NJEA and James Reilley, Director of Research, NJEA, September 12, 1977.

[66] Interview with James Moran, Executive Director, N.J. Association of School Administrators, September 13, 1977.

[67] Ibid.

[68] Robert Braun, "State in Spotlight on School Skills," Star Ledger, March 21, 1976.

[69] Ibid.

[70] Rubin, op. cit., 15.

[71] "Statewide Minimum Competencies -- A Force for Quality Education," New Jersey Education Reform Project, April, 1976, passim.

[72] The educational organizations were successful in their efforts to modify the bill. Supporters of statewide standards claim that the law is a "watered-down version" of the original bill.

[73] Interview with Mark Hurwitz, Executive Director, N.J. School Boards Association, September 30, 1977.

[74] The Commissioner of Education did offer an alternative proposal, however. He asked the Senate Education Committee "to soften the bill." The department would develop what he called "reference points" as opposed to standards, for local districts to work toward. See Judy Russell, "Burke: Soften Bill on Pupil's Performance," New York News, May 12, 1976.

[75] Robert Braun, "NJEA Fights Measure on Basic Skills," Star Ledger, April 5, 1976.

[76] The fact that the SBA supported the legislation is not a total surprise given their position that teachers should be evaluated based on student performance.

[77] Interview with Walter O'Brien, Director, Government Relations, NJEA, January 19, 1978.

[78] Position Paper, "Analysis of A 1736," NJEA, March 22, 1976.

[79] Judy Russell, "Ed Standards Make the Grade," New York News, May 25, 1976.

[80] Ibid.

[81] Interview with Steve Eisdorfer, op. cit.

[82] Robert Braun, "Minimum Standards Advocates May Yet Prevail," Star Ledger, July 8, 1976.

[83] Interview with Ruth Mancuso, President, State Board of Education, September 30, 1977.

[84] Memorandum dated November 12, 1974 from the Commissioner of Education to local officials concerning State Aid Notices (SA2 and SA3) for 1975-76.

[85] Ibid.

[86] Memorandum dated January 20, 1975 from Commissioner Fred G. Burke to local officials concerning state aid notices for 1975-76.

[87] Memorandum dated January 28, 1975 from Commissioner of Education Fred G. Burke to local officials concerning state aid notices for 1975-76.

[88] NJSA 18A:58-5 (b).

[89] Memorandum dated November 19, 1975 from the Commissioner of Education to local officials concerning 1976-77 State Aid Information.

[90] Ibid.

[91] Ibid.

[92] Memorandum dated November 24, 1975 from the Commissioner of Education Fred G. Burke to local officials concerning 1976-77 State Aid Information.

[93] Opening Statement by Fred G. Burke, Commissioner of Education, in a "T&E TV Town Meeting" presented on all four New Jersey Public Television channels on February 6, 1976.

[94] Ibid.

[95] Statement of Commissioner Fred G. Burke to Presidents of Boards of Education, Superintendents of Schools, and Secretaries of Boards of Education at Regional Meetings on January 26-27, 1976.

[96] Ibid., 3.

[97] "Message on the Fiscal Crisis" from Commissioner Fred G. Burke and Mrs. Ruth Mancuso, President, State Board of Education, Interact (New Jersey Department of Education, February, 1976).

[98] The debate over state aid now referred specifically to whether or not the formula contained in the new Education Act would be fully-funded. There was no longer a concern over which distribution formula was appropriate.

[99] Opening Statement by Fred G. Burke, Commissioner of Education in a "T&E TV Town Meeting" on February 6, 1976.

[100] Interview with Joseph Zach, Assistant Commissioner, Division of Controversies and Disputes, October 6, 1977.

[101] Interview with Ruth Mancuso, President, State Board of Education, September 30, 1977.

[102] Interview with Bernard Steinfelt, Assistant Commissioner, Division of Administration and Finance, September 20, 1977.

[103] Opening Statement -- "T&E TV Town Meeting" by Commissioner Burke, op. cit.

[104] Interview with Vincent Calabrese, Assistant Commissioner, Division of Administration and Finance, January 12, 1978.

[105] Ibid.

[106] Ibid.

[107] Based on a poll of County Superintendents Offices, districts budgeted as follows:

50 Districts adopted budgets anticipating full funding under Chapter 212.

379 Districts have adopted budgets using the low estimate calculated at 89.3278 percent of full funding.

53 Districts have adopted budgets between the high and the low estimate.

57 Districts have adopted budgets using a figure less than the low estimate.

56 Districts have adopted budgets using no state aid which may be the low estimate.

These figures were obtained from: Affidavit of Commissioner Fred G. Burke, before the Supreme Court of New Jersey, March 8, 1976.

[108] C. 113, L 1976 (Senate Bill 1503). The legislation and the information on state aid alternatives resulted in considerable confusion in the school districts. As a result, many districts appealed to the Commissioner regarding their appropriate state aid allocation for the 1976-1977 school year.

[109] Interview with James Moran, Executive Director, New Jersey Association of School Administrators, September 13, 1977.

[110] Position Statement dated February 4, 1976, by James A. Moran, Executive Director, New Jersey Association of School Administrators.

[111] Ibid.

[112] Ibid.

[113] NJASA Hotline, "State Aid Certification: Confusion, Concern, Commitment," February 17, 1976.

[114] Memorandum of February 6, 1976 from Mark Hurwitz, Executive Director, N.J. School Boards Association to all Board Members, Superintendents, Board Secretaries and Board Attorneys.

[115] Ibid. This is an important point. In an interview on September 30, 1977, Hurwitz pointed out that the impact on the budgetary process was a significant concern in the development of their position. April 30 is a key date because Boards must notify employees -- including teachers, of their status for the next academic year by that date. If they did not notify them of the possibility that they might not be hired, they would automatically be re-hired. SBA urged that they act so that they could send notices consistent with their budgets. Then, if they got full funding, they could then hire back those people they had intended to terminate.

[116] Interview with former staff member, The Governor's office, October 5 and 6, 1977.

[117] Hurwitz memorandum, op. cit., 2.

[118] NJASA Hotline, "State Aid Certification," February 17, 1976.

[119] Ibid.

[120] Hurwitz memorandum, op. cit., 1.

[121] Position Statement, N.J. Congress of Parents and Teachers, February 13, 1976.

[122] David J. Hladick, "Battle for Income Tax Levy Began 41 Years Ago," Trenton Times (July 9, 1976).

[123] Ibid.

[124] Gail M. Pumpara, "Bill Passes Senate with 1 Extra Vote," The Bulletin (July 9, 1976).

[125] Statement by Commissioner Fred G. Burke Before the Joint Committee on Appropriations, March 18, 1976.

[126] Memorandum dated February 10, 1975 from Commissioner Fred G. Burke to Secretaries and School Business Administrators concerning 1976-77 State Aid Information.

[127] Ibid.

[128] Order to Show Cause, issued by the New Jersey Supreme Court on February 19, 1976 in the matter of Robinson v. Cahill.

[129] The following briefs were filed in response to the Order to Show Cause issued by the New Jersey Supreme Court on February 19, 1976: (1) Plaintiffs-Respondents; (2) NAACP-ACLU; (3) New Jersey Attorney General; (4) New Jersey Commissioner of Education; (5) New Jersey Senate; (6) Education Reform Project of the Greater Newark Urban Coalition and the Board of Education of the City of Newark; (7) Governor Brendan Byrne; (8) New Jersey General Assembly; (9) New Jersey Education Association; and (10) New Jersey School Boards Association.

[130] For example, Governor Brendan Byrne Brief on Remedies, prepared by Lewis B. Kaden, Counsel, argued that the Court's remedial power included this authority.

[131] General Assembly Brief on Remedies, prepared by Borrus, Goldin and Foley, Counsel.

[132] NAACP and ACLU Brief on Remedies, prepared by Paul L. Tractenberg, Attorney. This brief presented its own remedy suggesting that the Court order the Commissioner of Education to: (1) group local school districts into one or more regions of approximately equal per pupil property tax base, (2) compute a uniform school tax rate for each region to be imposed by each municipality in the region with the revenues remitted to the Commissioner, and (3) distribute the revenues so raised to school districts in the region in accordance with local budgets as approved by the Commissioner. This plan would eliminate the educational disparities arising from disparities in local property tax bases and the municipal overburden problem would be obviated. Adequate provision could also be made for children who need special programs since local budgets are not constrained by the limitations of the local tax base.

[133] New Jersey Education Association Brief on Remedies, prepared by Ruhluan and Butrym, Attorneys.

[134] Affidavit of Commissioner Fred G. Burke attached to Brief of Attorney General on the Remedies, Attorney General William F. Hyland; and New Jersey School Boards Association Brief on Remedies, prepared by William J. Zaino, Attorney.

[135] Injunctive Order, New Jersey Supreme Court, May 13, 1976; 7.

[136] Ibid., 5.

[137] Archibald Cox, The Role of the Supreme Court in American Government (New York: Oxford University Press, 1976):95.

[138] Injunctive Order, New Jersey Supreme Court, May 13, 1976:5.

[139] Judy Russell, "School Crisis Stumps Panel, Byrne Is Told," New York Daily News (June 5, 1976).

[140] David Neese, "School Money Crisis Doesn't Worry Senate," The Trentonian (June 4, 1976).

[141] Judy Russell, "Justices May Hear School Closing Plea," New York Daily News (June 10, 1976).

[142] Robert Cohen, "Top Court Refuses to Halt School Closing," Star Ledger (June 11, 1976).

[143] Ramona Smith and Stephen Ford, "Court's Appeal Rebuff Spurs Talk of New Tax," Trenton Times (June 12, 1976).

[144] Ibid.

[145] David Neese and Frank Herrick, "New Jersey School Bind Is a Standoff," The Trentonian (June 11, 1976).

[146] Dan Weissman, "Income Tax: Pared Senate Measure Faces Crucial Test Monday," Star Ledger (June 11, 1976).

[147] Dan Weissman, "Senate Tax Opponents Warm to Mini-package for Schools," Star Ledger (June 13, 1976).

[148] Ibid.

[149] Alfonso A. Narvaez, "Jersey's Assembly Rejects Income Tax," New York Times (June 22, 1976).

[150] Ibid.

[151] Robert Cohen, "Three Suits Filed in U.S. Court," Star Ledger (June 23, 1976).

[152] Ibid.

[153] Jim Goodman and Stephen Ford, "School Kids Hostage in Crisis: Goldstein," Trenton Times (June 26, 1976).

[154] "Assembly GOP Fights," The Sunday Trentonian (June 27, 1976).

[155] Robert Cunningham, "Full U.S. Court Gets School Case," Trenton Times (June 25, 1976).

[156] Goodman and Ford, op. cit.

[157] Cunningham, op. cit.

[158] Robert Cohen, "State Officials Challenge U.S. School Action," *Star Ledger* (June 27, 1976).

[159] Robert Braun, "Resisting Byrne: Burke Will Try to Cushion Blow of Shutdown," *Star Ledger* (June, 1976).

[160] Robert Cohen, "Order for School Closing Stands," *Star Ledger* (July 1, 1976).

[161] Arthur Lenchan, "Humor Breaks Spell in Hushed Courtroom," *Star Ledger* (July 1, 1976).

[162] Quote taken from a story in the *Star Ledger*. Specific cite unknown.

[163] John Hilferty, "School History Becomes Tired Joke," *Philadelphia Inquirer* (July 1, 1976).

[164] Gail M. Pumpara, "Bill Passes Senate with One Extra Vote," *The Bulletin* (July 9, 1976).

[165] John Hilferty, "School History Becomes Tired Joke," *Philadelphia Inquirer* (July 1, 1976).

[166] Ronald Sullivan, "600 School Boards Feel Crisis," *New York Times* (June 30, 1976).

[167] Injunctive Order, New Jersey Supreme Court, May 13, 1976, 6.

[168] Robert Braun, "Hyland -- Queries on School Closing," *Star Ledger* (June 9, 1976).

[169] Ibid.

[170] Memorandum dated May 17, 1976 from Commissioner Fred G. Burke to Members of the State Board of Education, Assistant Commissioners and Division Heads.

[171] It should be noted that one representative from a major state educational interest group suggested that it was not necessary to formulate questions and submit them to the Attorney General. He argued that the Commissioner could have and should have provided the interpretations of the order.

[172] Memorandum dated June 9, 1976, from Commissioner Fred G. Burke to Attorney General William F. Hyland.

[173] Memorandum dated June 11, 1976, from Commissioner Fred G. Burke to Administrative Principals, County Superintendents, Secretaries, School Business Administrators and Superintendents of Schools.

[174] Interview with Joseph Zach, Assistant Commissioner, Division of Controversies and Disputes on October 6, 1977.

[175] Ibid.

[176] John Hilferty, "That Was the Week That Was for State Schools," Philadelphia Inquirer (July 15, 1976).

[177] Interview with Arthur Winkler, Special Assistant to the Commissioner, on October 5, 1977.

[178] A more specific articulation of the activities restricted by the court order is contained in Appendix II.

[179] Educational Financing Opinion #18 issued by Attorney General William F. Hyland, June 18, 1976.

[180] Leonard Fisher, "School Edict Perils 900 Jobs," Star Ledger (June 29, 1976).

[181] Interview with Arthur Winkler, Special Assistant to the Commissioner of Education, October 5, 1977.

[182] Emergency Services Unit Memorandum #1, June 29, 1976.

[183] Interview with William Brooks, Assistant Deputy Commissioner, October 4, 1977.

[184] Telegram dated May 27, 1976 from Governor Brendan Byrne to prospective members inviting their participation on a Citizen's Task Force.

[185] Opening Statement by Fred G. Burke to the Governor's Citizen Task Force on June 3, 1976.

[186] Report of the Communication Subcommittee of the Governor's Citizen Task Force, June 3, 1976.

[187] Ibid.

[188] Ibid.

[189] Report of the Subcommittee on Communication of the Governor's Task Force, June 3, 1976.

[190] Report of the Subcommittee on Summer Programs of the Governor's Citizen Task Force, June 3, 1976.

[191] Report of the Subcommittee on the 1976-1977 School Year, Governor's Citizen Task Force, June 3, 1976.

[192] Report to Governor Brendan Byrne, Citizen's Task Force on the July 1 School Crisis, June 17, 1976: 7.

[193] The contingency plans involved a large number of activities which included the establishment of 7 emergency task forces as well as a service information unit.

[194] Letter dated July 20, 1976 from Commissioner Fred G. Burke to Governor Brendan Byrne.

V

CONCLUSION

School finance reform in New Jersey involved more than the creation of a more equitable state aid distribution formula. It resulted in the adoption of a statewide income tax by a state legislature that had resisted income tax proposals for most of the previous decade. It also produced a "thorough and efficient" educational planning process to be monitored by the N.J. Department of Education. The controversy over the income tax and the conflict over the state's educational objectives were the direct result of the supreme court's initiative in the Robinson v. Cahill decisions. The funding of the public schools was tied to the fate of the income tax which lie with the state legislature. In 1975 and 1976, the term "T&E" and questions over its meaning dominated both informal and formal discussions among educators at local, county and state levels of government. This case study has documented the environmental uncertainty which dominated the educational policy process as the state tried to respond to the subtle and intractable issues raised by the Robinson mandates.

This analysis of the school finance reform process involves two specific foci: (1) the state's educational decision structure and the relative influence of major actors involved in the educational policy process and (2) the process of organizational choice within the N.J. Department of Education.

NEW JERSEY EDUCATIONAL POLICY-MAKING

In order to place an analysis of the educational policy process in one state in an appropriate context, it is essential to draw on data contained in the literature on state educational politics. Students of educational administration and educational politics claim that the context within which educational decisions are made is undergoing fundamental change. Educators at all levels of government are confronting a new politics or a political turbulence which has significant implications for the educational policy process. Students of state educational politics view these changes in the form of fragmented state educational decision structures. The purpose of this analysis is to examine New Jersey educational politics within the context of the existing body of knowledge on the state politics of education.

The school finance reform process involved a crisis in public education in New Jersey. The crisis involved change and confusion at two levels: (1) environmental uncertainty associated with events which were specific to the decision situation in New Jersey, and (2) uncertainty and confusion which was a function of changing relationships among major educational actors at the state level reflecting pervasive changes in the politics of education generally. The case study has documented the confusion and turmoil which dominated New Jersey's experience with school finance reform. However, the question remains: To what extent is the political turbulence occurring throughout the nation, as was discussed in the introduction, descriptive of New Jersey educational politics?

Political Turbulence in New Jersey?

School finance reform efforts normally involve two issues: (1) the creation of a new school state-aid formula which is supposed to result in a more equitable distribution of state aid, and (2) a search for a revenue source to support the finance reform program. In New Jersey, the state aid distribution formula was constructed with relative ease and is contained in the Public School Education Act passed in September, 1975. The issue which dominated the reform experience in New Jersey was the effort to adopt a statewide income tax. This revenue was necessary to implement a reformed "thorough and efficient" educational planning process and to affect the redistribution of state aid required under the new act.

The professional ideology which dominated educational decision-making for most of this century was predicated on the separation of politics and administration and of politics and education. Stressing the unity among educational professionals, educators were committed to the principles of conflict avoidance and neutral competence. There was a pervasive claim made by educators that educational issues and problems were above politics. In the view of educational professionals, the resolution of complex educational issues required the expertise of the professional educator.

The tenets of this professional ideology have been challenged. The literature on educational politics suggests that the professional ideology which fostered a structural bias to limit conflict has been shattered by a confluence of social, fiscal, and demographic changes.

In the early 1960's, it was recognized that educational decision-making was not separate from politics. In recent years, students of educational politics and administration go a bit further, claiming that educational decision-making is dominated by a new politics characterized by turbulence.

Political turbulence is a loosely defined concept which involves: (1) a threat to the educator's claim of expertise; (2) a changing and increasingly diverse constituency; (3) an expanding scope of conflict; (4) a fragmentation of the unity of schoolmen; and (5) an increased role by other government institutions, most notably the courts. This turbulence is pervasive as educators across the country confront mounting fiscal pressures and increasingly skeptical, if not hostile, publics. Educators are confronting rising educational costs at a time when student enrollments have begun to decline. Despite a substantial financial commitment to education at all levels of government, the public is dissatisfied with the product it is receiving as student performance on standardized tests continues to decline. Although it cannot be measured in dollar terms, there is growing evidence that the public believes that its return on investment is low while the level of investment for education is too high. Taxpayers across the country are revolting in an effort to substantially reduce taxes, especially the property tax, which is the primary means of supporting the delivery of educational services.

This study of educational reform in New Jersey provides support to the claim that educational decision-making is dominated by political turbulence. The effort to reform school finance in New

Jersey involved an institution which is not normally involved in educational decisions. New Jersey would not have an income tax or a reformed "thorough and efficient" system of education were it not for the New Jersey Supreme Court. The supreme court initiated the reform process and through a series of seven separate decisions in Robinson v. Cahill, forced the other branches of state government to act.

The data in this study suggest that the educational constituency in New Jersey is changing and that the expertise of educators is being challenged. The educational reform experience demonstrates the growing tension between educators and a changing and more vocal constituency. First, the Robinson decisions engendered the submission of nearly one hundred briefs. The positions of governmental actors on the various issues raised in the Robinson case were so diverse that the legal defense offered by the government fragmented. The governor's office, the commissioner of education, and both houses of the state legislature submitted their own briefs at different stages of the four year litigation. Briefs were also submitted by non-educational interest groups as well as educational interest groups. Many of these briefs, especially those that attempted to address the issues involved with defining quality education and equal educational opportunity, relied on social science evidence contrary to the evidence presented by educators.

Second, the educators coalesced around a process approach to equal educational opportunity. Educators relied on the Coleman

Report and Rand Studies which challenged the input and output approaches to equal educational opportunity. Proponents of statewide minimum standards mounted a specific challenge to the educators claim to expertise. Urban interest groups presented social science evidence supporting the need for output criteria in the definition of "thorough and efficient." Third, the importance of the accountability issue involved in both the income tax and statewide minimum standards debates is evidence that the public and their elected representatives are challenging the independence of the educational bureaucracy. Legislators are much less inclined to accept the advice of educators at face value. The Public School Education Act established a Joint Committee on the Public Schools which is charged with overseeing the implementation of the "thorough and efficient" planning process. This represents the first time in New Jersey that educators have had to answer to a public body organized specifically to concern itself with educational issues. Finally, the legislature has increased the size of its education staff, hiring a number of professionals who can provide educational research support to legislators.

The debate over statewide minimum standards is an example of an issue with an expanding scope of controversy and conflict. Educators had developed a significant consensus around a process approach to defining the "thorough and efficient" education clause. Through the process of drafting the T&E regulations, educators had interpreted the Education Act to mean that standards of proficiency in the basic skills be determined by school districts.. Urban interest groups opposed this position claiming that a process approach which relied on locally determined standards of proficiency would not result in educational improvement in the urban districts. The urban groups proposed the need to assess student performance in all school districts so that the state's remedial efforts to improve student performance could be directed to those districts which most needed assistance. Educators resisted the effort to establish statewide standards, preferring to leave such a function to the school districts where much of the other T&E planning activity would occur. The T&E regulations drafted by the N.J. Department of Education included a requirement for locally-determined standards. The proponents of statewide standards were forced to take their fight to another arena. With the concern for fiscal accountability raised by the debate over the income tax, the statewide standards proponents found a receptive audience. Statewide standards passed the legislature with the support of Governor Byrne. The bargaining on this issue is an indication that urban interests may be more inclined to pursue their special interests. The scope of controversy and conflict on this educational issue expanded despite the bias of educators to limit its scope.

Finally, the political turbulence is evidenced by the fragmentation of the unity among schoolmen in New Jersey. The fragmentation of the state's education decision structure is discussed in detail in the next section.

The Educational Decision Structure

There is little theory on state educational politics. The literature is dominated by case studies which demonstrate the political elements of educational policy-making at the state level. In 1967, Laurence Iannacone reviewed the case study literature and formulated a typology which could be used to categorize state educational decision structures. He found that educational decision-making in most states was dominated by a high degree of consensus within the education lobby and a closed system of politics dominated by administrators. He characterized this decision structure as statewide monolithic and concluded, in 1967, that New Jersey education politics belonged in this category.

This conception of state decision-making as a closed system characterized by a high degree of consensus is consistent with the conception of the dominant professional ideology which characterized educational policy-making for most of this century. Iannacone identified a conscious effort among schoolmen in these structures to limit disagreement within their ranks on educational issues. When conflict arose on educational issues, the conflict was accomodated within the educational community. Educators tried to present united positions to the state legislatures.

In 1967, Iannacone argued that there were a number of forces extant which would tend to fragment these monolithic state decision structures. Organized teacher militancy would result in a fundamental tension between state teacher organizations and state school boards associations. It was also argued that the decision structures were characterized by a structural bias against the cities. Iannacone predicted that as urban interest groups became more vocal, conflict would tend to challenge the unity among schoolmen at the state level.

In 1974, Kenneth Pack, in a study of the New Jersey Department of Education, applied this theory to New Jersey education politics. Pack concluded that New Jersey's educational decision structure had moved from the monolithic structure to a statewide fragmented arrangement. This implied a major tension between labor and management within the education lobby. It also meant that educational issues involved conflict among educational actors which was not accommodated within their own ranks.

This case study confirms Pack's conclusion that educational decision-making in New Jersey is characterized by conflict and tension among major educational actors. The political turbulence which has come to dominate educational governance implies that educators must learn how to function effectively in conflict environments. Both the statewide minimum standards issue and the controversy over the state aid decision as documented in this study provide evidence to confirm this conclusion.[1]

Major Actors in Educational Policymaking

In 1975, Roald Campbell and Tim Mazzoni conducted a comparative study of twelve states to assess the relative influence of major actors involved in educational policy-making. It is useful to compare the findings in this study with the findings of the Educational Governance Project (EGP) regarding major actors in educational policy-making.

Most analyses of state educational decision-making focus on (1) the state legislature and appropriate legislative committees concerned with educational issues; (2) the office of the Governor and specific task forces or commissions established for educational purposes; (3) the State Education Agency, comprised of the Chief State School Officer (CSSO), the state department of education (SDOE), and the state board of education (SBE); and (4) the education lobby comprised of educational interest groups, including: the teacher organization (NJEA), the school boards association (NJSBA), the administrator organizations (NJASA), and the Congress of Parents and Teachers (PTA).

It is impossible to consider all of the findings of the EGP study. This effort considers those findings which support the argument that state educational policy-making is characterized by political turbulence.

This case study supports the EGP conclusion that the role of the state education agency on educational issues and its relationship with the professional associations, the governor's office, and the legislature is experiencing fundamental change. This is consistent with Iannacone's conclusion that the unity among schoolmen has disintegrated. In New Jersey, the state board of education is a relatively weak actor, following the lead of the Chief State School Officer and very dependent upon the N.J. Department of Education for its information. The Chief State School Officer is an important actor with significant influence within the educational community. His power largely rests with the implementation responsibilities of the department of education. Within the legislative arena, however, our data support the EGP claim that the teachers organization, the school boards association, and the administrator's organization are competing with SDOE's claim of expertise. The EGP study found that educational interest groups tend to disagree. Educational issues are increasingly decided in the legislative arena subject to the influence of the governor. The NJEA, the NJSBA, and the NJASA have strong government relations and research units and make a concerted effort to provide information and data supporting their particular viewpoints on various issues to the legislature, the governor and the school districts. This emphasis on the flow of information, especially to local school districts, was especially evident in the discussion of the state aid decision.

The EGP concluded that governor's tend not to get involved in the details of education. The governors' interest and influence on educational issues is usually related to fiscal and budgetary concerns. Governors yield considerable influence despite not being directly involved in educational matters. In New Jersey, the governor was peripherally involved in the statewide standards issue. Governor Byrne supported statewide standards in opposition to educators primarily to get votes for the income tax. The Governor was indirectly involved in the state aid decision in that his budget, and proposed budget cuts, were the major premises upon which the state aid decision was based.

The EGP found that governors are more inclined to get involved in school finance reform issues than other educational issues. In New Jersey, Governor Byrne initiated comprehensive tax reform in response to the court's mandate to reform school financing. The governor was a major proponent of the income tax and continuously prodded the legislature to act positively on the various tax proposals. The EGP concluded that the direct role of the governor on the issue of school finance reform "challenged the traditional role of the education department, which except for providing new data, may be omitted from crucial formulation stages."[2] This study did not examine the formulation stage of the school finance reform issue and consequently, our data can neither support nor dispute this very important claim.

These findings strongly support the EGP conclusion that state legislatures are playing an increasingly vital role in educational policy. In New Jersey, the statewide minimum standards issue was resolved in the state legislature rather than within the educational community. The Education Act established a Joint Committee on the Public Schools for the purpose of monitoring the implementation of the T&E planning process. This committee is supported by an expanded staff and there is considerable evidence that the JCPS is taking its monitoring role very seriously.

AMBIGUITY AND ORGANIZATIONAL CHOICE

This section analyzes the educational decision-making process, focusing on the New Jersey Department of Education. This case study has documented the environmental uncertainty and political turbulence which dominated the educational decision-making context. The theory of organized anarchy described in the introduction is used as a framework for this analysis. The theory is predicated on ambiguity and emphasizes the incapacity of public organizations to execute rational choice processes.

This case study demonstrates that departmental decision-making was influenced by unpredictable actions of the supreme court, the governor, and the state legislature. A comprehensive analysis within this theoretical framework would involve an exploration of how each of these institutions specifically affected the decisions examined in this case. This analysis, however, is concerned specifically with the impact of a deadline imposed by the supreme court.

The N.J. Supreme Court was a significant actor in the school finance reform process, continuously prodding the legislature to act on a statewide revenue source which was needed to implement the educational reforms. The supreme court intervened in the state policy-making process in various ways, the most effective being the imposition of deadlines. The deadlines imposed by the supreme court totally disrupted decision processes within the department. This analysis examines the response of the department to the final deadline imposed by the court in its injunctive order issued on May 13, 1976.

In 1973, the supreme court presented a choice opportunity to the SDOE and to the entire state policy-making apparatus. For the next three years, the governor, the legislature and the educational bureaucracy concerned itself with the myriad of subtle issues involved in reforming public school finance. The educational bureaucracy was responsible for maintaining the efficient operation of the state's school system through this period of confusion and chaos. In addition to executing on-going responsibilities, the reform process posed a number of unique tasks for the SDOE. The SDOE was responsible for:

(1) coordinating the process of defining T&E

(2) preparing for its implementation by July 1, 1976

(3) implementing the T&E planning process beginning with the 1976-1977 school year.

The capacity of the SDOE to simultaneously perform its operating responsibilities and to assume these new tasks was constrained by the uncertainties dominating the decision context. Routine decisions were often turned into complex issues which seriously challenged the department. Energy in the department was often consumed by activities which did not contribute to either the execution of on-going responsibilities or the assumption of the newly imposed tasks associated with the effort to define the "thorough and efficient" clause.

The two most obvious examples were: (1) the considerable time expended on the state aid decision which is, under normal circumstances, a routine decision, and (2) the major effort within the SDOE to prepare for the closing of the schools on the very day that the reformed T&E planning system was scheduled to be implemented.

The educational bureaucracy is responsible for the efficient operation of the schools. What accounts for such an inefficient allocation of time and energy in the department? The theory of organized anarchy offers some understanding of this expenditure of time and energy on unproductive tasks. The deadline imposed by the court is an example of the environmental uncertainty with which the department had to contend, and one factor contributing to the inefficient use of departmental time and personnel. Before the theory can be applied, the decision situation in New Jersey must be assessed to determine whether or not it meets three important conditions.

N.J. School Finance Reform: An Organized Anarchy

The theory of organized anarchy suggests a number of conditions which make rational decision-making, that is a comprehensive consideration of alternatives and consequences within the context of clearly defined and consistent goals, impossible. An organized anarchy is an ambiguous decision situation characterized by three general properties:

1. Problematic preferences. The organization operates on the basis of a variety of inconsistent and ill-defined preferences. It can best be described as a loose, disjointed structure rather than a coherent structure. The organization must act without a clear set of preferences as a result of its actions.

2. Unclear technology. The organization lacks an understanding of its own processes. It manages to produce and survive but it is not sure how the production occurs. The organization tends to rely on simple trial and error procedures, the residue of learning from past experience and pragmatic inventions of necessity.

> 3. Fluid participation. Participants in decision making vary in the amount of time and effort they devote to different choices and the total involvement varies from one time to another. As a consequence, the boundaries of the organization are constantly changing.[3]

This study concludes that these three properties characterize the effort to reform school finance in New Jersey. The author agrees with the proponents of this theory who argue that organized anarchy is increasingly descriptive of decision situations confronting state educational organizations.

The case specifically demonstrates how these properties pertained in the New Jersey experience. First, educational goals were problematic. The Robinson case mandated that the legislature work with the executive to define the education clause of the state constitution. As the meaning of "thorough and efficient" was debated in the legislature and the educational bureaucracy, the goals and objectives of the state's educational system were in a state of flux. The definitional process was one of bargaining and consensus-building, especially among the educational organizations. Second, technology in education was ambiguous. The debate over T&E reflected an ambivalence over the means for achieving the generally accepted goals of equal educational opportunity and quality education for all children in New Jersey. The effort to reform school financing involved a serious attempt to rely on social science evidence on the learning process. The conflicting evidence regarding the relationship between input and process factors on student performance resulted in an intense debate over the appropriate knowledge base upon which to construct the T&E definition.

Finally, participants in the educational decision-making process varied in the amount of time which they could expend on particular problems. This third property does not need to be defined within the context of this particular decision situation. Individuals within organizations are generally constrained by multiple responsibilities and obligations which determine the time that can be allocated to specific problems and decisions.

Applying the Garbage Can Model of Organizational Choice

A decision situation characterized by organized anarchy involves separate flows of problems, solutions, participants, and choice opportunities. A decision situation is viewed as an empty receptacle, or garbage can, in which these streams flow independently of one another. The theory holds that organizational structure influences decisions by: (1) affecting the time pattern of the arrival of problems, choices, solutions, or decision-makers; (2) determining the allocation of energy by potential participants in the decision; and (3) establishing linkages among the various streams.[4] There are several structural devices which are employed to regulate the connections among the four streams, including: hierarchy, degree of specialization, the distribution of information, and the allocation of authority within the organization. The turmoil and confusion which dominated this decision situation rendered the impact of structure nominal. This analysis is concerned with the impact on these streams of deadlines imposed by the N.J. Supreme Court.

An increased role in educational policy by organizations and institutions which have not been traditionally involved in educational decision-making is one element of the political turbulence that is dominating educational governance. The courts are increasingly playing a proactive role, especially in the areas of school finance reform and school desegregation. The courts have performed a coercive function, forcing public organizations to take actions which they have traditionally resisted. One technique which the courts are employing with increasing frequency is the imposition of deadlines usually backed up with sanctions.

There have been few studies which have examined the impact of deadlines on educational administrative decision-making. The theory of organized anarchy does not require that decisions be reached or problems solved by a specified time. The organization works on decisions until they are made.[5] Stephen Weiner conducted a study applying the theory of organized anarchy to the effort to desegregate public schools in San Francisco which involved a court-imposed deadline. Weiner concluded that the theory was remiss for not recognizing the role of time restrictions:

> When one observes the actual operation of organizations it becomes evident that organizational environments are not always indifferent as to whether organizations reach a given decision or resolve certain problems. Such environmental impatience results in deadlines being imposed upon the organization.[6]

Within the context of the theory of organized anarchy, Weiner was concerned with, among other things, how problems and energy (participation) flow from a specific choice opportunity or decision point when a deadline is imposed. In the Weiner study, a number of propositions can be identified regarding the impact of deadlines on the flow of problems and participants involved in a decision situation. Our case study provides evidence which tends to support these propositions:

1. Deadlines serve as cues for directing attention to those choices and problems subject to a deadline and to divert attention away from choices and problems unaffected by deadlines.
2. Deadlines may be ambiguous with regard to the problems that must be considered.
3. The effectiveness of deadlines as cues for attracting the attention of organizational participants is drastically reduced by uncertainties associated with the date of a deadline.
4. To be effective as attention cues, deadlines must not only be certain, they must also be coercive.
5. Deadline conditions cause a dramatic increase in the energy that must be devoted to the choice by active participants.
6. For active deadline participants, time contributed to the choice is not freely given but is largely coerced.
7. As a result of the partial or total withdrawal of some participants, some problems will be ejected from the choice.
8. As the choice process under deadline conditions is observed over time, the mode of achieving greater energy expenditures in order to meet the deadline will emphasize greater time expenditures on the part of a relatively few participants rather than modest increases in time expenditures by a large number of participants.[7]

Before discussing how this case study supports these propositions, an important distinction must be made between the deadlines imposed in the San Francisco case and the deadlines which confronted educators in Trenton, New Jersey. In the desegregation case in San Francisco, the deadline was imposed by the court directly on the Board of Education of the San Francisco Unified School District. In this case, the deadline was imposed on the state legislature regarding a non-educational issue, the statewide income tax. In a series of decisions, the court repeatedly tried to coerce the legislature to adopt a statewide instrument to raise needed revenue for the implementation of the educational reforms. The fact that deadlines were imposed on the legislature increased the uncertainty and stress on educators who realized that their actions could not directly avert the school closing, which resulted from the final deadline imposed by the court. Despite the fact that the deadlines were designed to induce legislative action, the sanctions involved the delivery of educational services and the deadlines imposed serious constraints on the activities of the department of education.

Proposition #1 is directly supported by this case. On May 15, 1976, the supreme court issued an injunctive order which ultimately closed the schools because the legislature did not act to fund the Education Act by July 1, 1976. After the imposition of the order, the educational bureaucracy was preoccupied with efforts to prepare for, or perhaps prevent the school closing. This deadline diverted attention from the major policy preoccupations within the department at that time, the pending implementation of the T&E planning process which was also scheduled to begin on July 1. Operating responsibilities of various divisions in the department were put aside so that attention could be directed to the problems associated with the pending shutdown.

For example, Joseph Zach, Assistant Commissioner of Education, Division of Controversies and Disputes, noted that during the months of May and June, 1976, he was totally concerned with problems raised by school districts as a result of the injunctive order. His normal responsibilities were totally ignored as cases on appeal to the commissioner were left to pile up.[8]

This case strongly supports proposition #2 which claims that deadlines may be ambiguous with regard to the problems that must be considered and proposition #5 which suggests that there will be a dramatic increase in energy directed to the choice. The supreme court's injunctive order contained a number of exceptions to the closing which posed problems that monopolized staff from the attorney general's office and the department of education. Following the court's order, the department was inundated with specific problems and queries from school districts requesting an interpretation of the order. The departmental senior staff spent considerable energy on these problems. Energy was also diverted as the department confronted the problems associated with the anticipated closing of the schools. The Governor's Citizen Task Force prepared contingency plans while an Emergency Services Unit was established within the department to deal with individual problems raised by employees who faced termination.

Propositions #3 and #4 are also supported by the evidence in this case. The deadline contained in the court's injunctive order was clearly specified, the legislature had to act before July 1.

It also contained a coercive element, schools would close unless the legislature acted on the income tax. Legislators concerned with reelection were reluctant to vote positively for an unpopular tax. However, they were also reluctant to sit by and be subjected to criticisms for letting the schools close. The sanction was most severe and it worked.

This case strongly supports proposition #8.[9] As the July 1 deadline approached, the senior staff of the Division of Administration and Finance responded to problems posed of a fiscal nature while senior staff from the Division of Controversies and Disputes worked with the attorney general to interprot the court order and its implications for the school districts.

This case study documented the political turbulence and environmental uncertainty which dominated the educational decision-making process associated with school finance reform in New Jersey. This study suggests that New Jersey has received more from this process than a reformed system of education and a statewide tax on personal income. Educational governance is undergoing fundamental change. Educational policy-making in the state is no longer dominated by professional educators in the department of education or the major educational interest groups.

The decision experiences examined in this case study demonstrate the subtle manner in which power over educational policy is being wrested from the hands of the professionals. With regard to statewide minimum standards, urban interest groups entered into a unique coalition with conservative republicans to get statewide standards adopted as part of the T&E definition, despite the resistance of educators. The decision by Commissioner Fred G. Burke to send alternative state aid information to school districts exemplifies how routine organizational decisions can be made complicated by unpredictable events outside the organization. This decision also reflects the subtle influence of the governor in educational decision-making as his proposed budget cut was the major premise upon which the state aid decision was based. Finally, the school closing crisis dramatically demonstrates one way in which the role of the judiciary in educational governance is expanding.

These changes pose a fundamental question regarding the governance of education in New Jersey: If the professionals are losing power over educational policy-making, then who governs education?

This is a trite question posed over and over again in a democratic society. However, with the "second revolution" in educational politics upon us, it becomes a crucial question for educational administrators in all the states, and for that matter, at all levels of government.

V

FOOTNOTES

[1] This conclusion was also confirmed by a comparative study of twelve states conducted by Roald Campbell and Tim Mazzoni in 1975. The Educational Governance Project found that the prevalent pattern in educational decision-making was consistent with Iannacone's Type III category, statewide fragmented.

[2] Roald Campbell and Tim Mazzoni, State Policy Making for the Public Schools. (Columbus, Ohio: Educational Governance Project, Ohio State University, 1974): 363.

[3] Stephen Weiner, "Educational Decisions in an Organized Anarchy," (Ph.D. Dissertation, Stanford University, 1973): 17-18.

[4] James G. March and Johan P. Olsen, eds., Ambiguity and Choice in Organizations (Bergen, Norway: Universitets-forlaget, 1976): 21.

[5] Weiner, op. cit., 338.

[6] Ibid.

[7] These propositions were compiled from Stephen Weiner's dissertation and an article "Participation, Deadlines and Choice" in March and Olsen, op. cit.

[8] Interview with Joseph Zach, Assistant Commissioner, Division of Controversies and Disputes, October 6, 1977.

[9] This case study did not provide evidence to either support or refute propositions #6 and #7. They are listed for possible testing in the future.

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APPENDIX I

METHODOLOGY

The educational decision-making process associated with the effort to reform school financing in New Jersey is scrutinized with considerable attention to the uncertainty and ambiguity which dominated the decision context. Background information on the legal, institutional, political, economic, and demographic factors which shaped the process of decision was gathered and is presented in Chapter II. Inquiry is restricted to the period following the passage of the Public School Education Act (Chapter 212, Laws of 1975) in September, 1975 through the passage of the income tax in July, 1976. The following four decision issues are examined: (1) the reorganization of the department of education; (2) the debate over statewide minimum standards; (3) the decision to send alternative state aid figures to school districts for the school year 1976-1977; and (4) the school closing crisis precipitated by the New Jersey Supreme Court's injunctive order issued May 13, 1976.

Unlike many case studies which focus on one particular decision, this study focuses on a period of time and a series of decisions associated with a number of educational issues which surfaced with the state's effort to reform school finance. There was a range of issues involving educational and noneducational actors that were important and worthy of investigation. The major criterion employed in the selection of the issues noted above was that they provide a focus for the gathering of data that would illuminate the decision process.

The selection of issues was based on the specific frame of reference of this study. The frame of reference is defined by the purpose of the research which includes: (1) a documentation of the decision process involved in school finance reform in New Jersey, paying particular attention to educational actors, and (2) an analysis of the relative influence of major actors involved in educational policy making and of the process of organizational choice in the N.J. Department of Education during a period of stress and confusion.

Interviews

In May and June, 1977, preliminary interviews were conducted and a review of relevant documents undertaken for the purpose of focusing this investigation. The New Jersey Supreme Court decisions in Robinson v. Cahill and the relevant legal documentation were examined. Legislative reports and hearings; journal and law review articles related to school finance reform; agency annual and special reports; research report; and local and national newspaper accounts were read for the specific purpose of identifying issues which seemed to occupy the time of the participants involved in the decision process. Twelve preliminary interviews were conducted in June which were intended to supplement the documentary search. The persons interviewed were participants in the process. The interviewees were chosen in a manner to be representative of the process. Actors from each of the major educational organizations, and a number of individuals from noneducational interest groups, were interviewed. The interviews were unstructured and exploratory.

A total of sixty personal interviews were conducted during the months of October and December,1977, and January, 1978. Most of the interviews involved actors from the N.J. Department of Education, the State Board of Education, the New Jersey Association of School Administrators, the New Jersey Education Association, the New Jersey School Boards Association, the Congress of Parents and Teachers, and the Joint Committee on the Public Schools of the state legislature. Actors from the governor's office, the state legislature, and noneducational interest groups were also interviewed. The interviews were unstructured and involved open-ended questions and focused on the decision dynamic associated with the four decision experiences identified above.

INTERVIEW LIST

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Division of Research, Planning & Evaluation
N.J. Department of Education

William Brooks
Assistant Deputy Commissioner
Office of School Programs
N.J. Department of Education

Fred G. Burke
Commissioner of Education

Vincent Calabrese
Assistant Commissioner
Division of Administration and Finance
N.J. Department of Education

Kenneth Carlson
School of Education
Rutgers University

Delores Corona
Government Relations
New Jersey Education Association

Michael Cull
Planner, Bureau of Education
N.J. Department of Education

Stephen Eisdorfer
Education Law Center

Jerry English
Legislative Counsel
Office of The Governor

Daniel Gaby
Vice President
State Board of Education

Gary Gappert
Assistant Commissioner
Division of Research, Planning & Evaluation
N.J. Department of Education

Bryant George
Member
State Board of Education

Clifford Goldman
State Treasurer

Frank Haines
Executive Director
N.J. Taxpayers Association

Catherine Havrilevsky
Assistant Commissioner
Division of Field Services
N.J. Department of Education

Fred Hipp
Executive Director
N.J. Education Association

Evelyn Hoff
President
Congress of Parents and Teachers (PTA)

Jane Holub
Director
State Compensatory Education
N.J. Department of Education

Mark Hurwitz
Executive Director
N.J. School Boards Association

Thomas Kean
Assemblyman
R. - Elizabeth

Ralph Lataille
Deputy Commissioner
N.J. Department of Education

William Mathis
Director
Office of Educational Research and Assessment
N.J. Department of Education

Richard Mills
Planning Associate
Division of Administration and Finance
N.J. Department of Education

James Moran
Executive Director
N.J. Association of School Administrators

Jay Moskowitz
Education Policy Research Institute
Educational Testing Service

Paul Muller
Staff, N.J. Legislature
Education Committee

Walter O'Brien
Government Relations
N.J. Education Association

Octavius Reid, Jr.
Government Relations
N.J. School Boards Association

James Reilley
Director of Research
N.J. Education Association

Ernie Reoch
Staff, N.J. Legislature
Joint Committee on Public Schools

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N.J. Education Reform Project

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Glenn Tecker
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Nida Thomas
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Office of Equal Educational Opportunity
N.J. Department of Education

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William Wenzel
Assistant Commissioner
Division of Vocational Education
N.J. Department of Education

John White
Staff, N.J. Legislature
Education Committee

Stephen Wiley
Senator
Chairman
Joint Education Committee

Sherwood Wilson
Deputy Assistant Commissioner
Division of School Programs
N.J. Department of Education

Art Winkler
Special Assistant
Commissioner of Education

Robert Woodford
New Jersey Manufacturer's Association

Joseph Zach
Assistant Commissioner
Division of Controversies and Disputes
N.J. Department of Education

APPENDIX II

"OUR SCHOOLS" GOALS

OUTCOME GOALS

To acquire basic skills in obtaining information, solving problems, thinking critically, and communicating effectively.

To acquire a stock of basic information concerning the principles of the physical, biological, and social sciences, the historical record of human achievements and failures, and current social issues.

To become an effective and responsible contributor to the decision-making processes of the political and other institutions of the community, state, country and world.

To acquire the knowledge, skills, and understandings that permit him/her to play a satisfying and responsible role as both producer and consumer.

To acquire the ability to form satisfying and responsible relationships with a wide range of other people, including but not limited to those with social and cultural characteristics different from his/her own.

To acquire the capacities for playing satisfying and responsible roles in family life.

To acquire the knowledge, habits and attitudes that promote personal and public health, both physical and mental.

To acquire the ability and the desire to express himself/herself creatively in one or more of the arts, and to appreciate the esthetic expressions of other people.

To acquire an understanding of ethical principles and values and the ability to apply them to his/her own life.

To develop an understanding of his/her own worth, abilities, potentialities, and limitations.

To learn to enjoy the process of learning and to acquire the skills necessary for a lifetime of continuous learning and adaptation to change.

PROCESS GOALS

Insure that all instruction bears a meaningful relationship to the present or future needs and/or interests of students.

PROCESS GOALS (continued)

Insure that each student has significant opportunities, consistent with his/her age, for helping to determine the nature of his/her educational experiences.

Insure that specialized and individualized kinds of educational experiences are available for meeting the particular needs of every student.

Insure that teachers and students have significant opportunities for participating in the decisions affecting the operations of the schools they work in or attend.

Provide comprehensive guidance facilities and services of high quality for every student.

Seek to structure competition among students in ways that are less harmful than present practices are.

Insure that the resources available for education are used with maximum efficienty.

Insure that instructional, administrative and support staffs are of high quality in every respect.

Develop and utilize diverse forms of constructive cooperation with parents and community groups.

APPENDIX III

OUTLINE

SPECIAL EDUCATIONAL FINANCING OPINIONS*

Opinion #

1 The Court order "bars any expenditure subsequent to July 1, 1976 for educational planning purposes."

2 "Local boards of education may not expend public moneys, after July 1, 1976 for the support of the summer programs commenced prior to that date."

3 Recreational programs "are sufficiently separate and distinct from regular school programs so as not to fall within the court ban." The rental of school grounds and school facilities may also continue as long as "such programs are not an integral part of the system of free public schools."

4 Local districts may expend those public moneys necessary to preserve, protect and upkeep the public school buildings, grounds, equipment and furnishings. - (But not janatorial).

5 Local boards of education...may do all things reasonably necessary to maintain all types of insurance coverage.

6 The Court's injunction "does not preclude meetings of local boards of education after July, 1976, so long as any official action taken at such meetings is consistent with the terms of the injunctive order."

7 Audit reports may be completed.

8 "The completion of school records and transcripts for students who have just graduated form high school would not appear to fall within the scope of the above-described injunction."

9 Local district tuition payments for handicapped children in residential programs must cease.

10 Local boards of education may enter into agreements concerning education programs but must reflect possibility of the imposition of said injunction. Prior to July 1, local boards may make commitment (maintenance of effort) so long as they specify possibility of the injunction being imposed.

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*Opinions promulagated by the Attorney General in response to inquiries from the Commissioner of Education.

11 "Local boards of education may not expend public moneys after July 1, 1976 to continue vocational education programs including, but not limited to, those dealing with agriculture and animal husbandry."

12 "The Court's order precludes local boards of education from expending public moneys after July 1, 1976, for enrolling and planning instructional programs for students new to the districts."

13 "Court's injunctive order precludes local boards of education, after July 1, 1976 from expending public moneys to continue those recruitment and evaluative activities necessary to fill staff vacancies."

14 "This exception thus clearly permits expenditures on and after July 1, 1976 for construction obligations incurred prior to that date."

15 "...the procedures set forth in N.J.S.A. 54: 4-75 for the release of school appropriations to a local district are operative, but that only sufficient funds to pay for items not enjoined may be requested from and released by the custodian of school moneys."

16 "...Meals may be provided to children during the summer under the Summer Food Services Program."

17 Local boards of education can hold special elections.

18 Concerning the functioning of county offices: those personnel involved in curriculum and such cannot be employed after July; those involved in other exempted activity can.

19 "School districts may offer such programs (immunization)" even if an injunction is imposed.

20 "Court's injunctive order precludes a local board of education continuing its summer school program, after July 1, 1976 by transferring its students to the demonstration school of a state college."

21 They can spend money to maintain handicapped children in residential programs but cannot expend any money on educational programs.

22 "...vacation pay may be disbursed for vacation time which has accrued to school employees as a result of their work during 1975-76.

23 Employees of local boards and the Department of Education who are layed off may apply for Unemployment Assistance Benefits.

24 Concerned notice and bumping rights for departmental employees who would be laid off because of the injunction.

25 The May 13th order "precludes the continuation, after July 1, 1976, of all educational programs which require any expenditure of state, county, or municipal moneys but permits those educational programs to continue which solely require the expenditure of federal moneys.

26 Programs such as adult education,high school completion, adult vocational education may continue since they are separated from the system of free public schools.

27 Concerned the pension insurance of employees.

28 "Employees of the State Department of Education may continue to be employed after July 1 in order to (a) complete reports..."

APPENDIX IV

GOVERNOR'S CITIZEN TASK FORCE
ON THE JULY I SCHOOL CRISIS

Membership

Chairman: Dr. Fred C. Burke
Commissioner of Education

Mrs. Elayne Brodie - Chairlady
Title I Central Parents Council

Robert Scanlon - Director
Research for Better Schools

Edward J. Meade, Jr. - Program Officer in Charge
Ford Foundation

Mrs. Carl Hoff - President
N.J. Congress of Parents and Teachers

Arnold Weber - Chairman
N.J. State Advisory Council for Vocational Education

Richard Harclerode - Staff Supervisor
N.J. Bell Telephone Company

Lewis R. Applegate - Representing Donald Scott - President
N.J. State Chamber of Commerce

Dr. Jerome Pollack - President
Fairleigh-Dickenson University

Mrs. Ruth H. Mancuso - President
N.J. State Board of Education

Mrs. Katherine K. Neuberger
N.J. Board of Higher Education

Rev. Paul Stagg - President
N.J. State Council of Churches

Donald R. Conway - President
N.J. State Bar Association

Leonard Johnson -President
N.J. Manufacturers Association

Dr. Fred Hipp - Executive Director
N.J. Education Association

Dr. Mark W. Hurwitz - Executive Director
N.J. School Boards Association

Charles H. Marciante - President
AFL-CIO of New Jersey

James Moran - Executive Director
N.J. Association of School Administrators

William Brunell - President
N.J. Library Association

Gerald LeBoff - President
N.J. Council of Community Colleges

Edward J. Leadem - Executive Director
N.J. Catholic Conference

Rev. Alfonso Roman - Executive Director
New Jersey Puerto Rican Congress

Mortan Pyle
Editor
Newark Star Ledger (Refused to participate)

APPENDIX V

IMPACT OF SCHOOL CLOSING CRISIS*

The Task Force began its assignment on June 3 by examining the severity of the problems that will be created if the public schools are forced to close on July 1. A study, IMPACT OF THE NEW JERSEY STATE SUPREME COURT INJUNCTION AS OF JULY 1, 1976, was distributed and accepted by the Task Force as an indication of the effect of the injunction. The study showed that the closing of public schools on July 1 will affect some 200,000 students, children and adults, through the hot summer months of July and August.

Beyond the immediate problem, a shutdown of the state's educational system now will affect the school system when it is permitted to reopen. Each day lost this summer in planning, scheduling and working with students' records will mean hat the opening of school in September will be delayed proportionately.

The immediate impact will be felt by more than 88,000 children who will be denied the opportunity of attending summer school in 300 districts throughout the state. This includes more than 4,300 high school seniors who had planned to meet graduation requirements this summer. Some of these seniors will not be able to enter college this fall. The lack of a high school diploma will have a negative affect on many others who are seeking jobs. And, for some, it will mean repeating a full year or half year of high school--or not returning to school and never graduating.

Other major effects of the school closing during July and August, as reported in the impact statement:

- * The closing of vocational schools will leave 61,618 students unemployed and deprive them of an income of more than $5.5 million.
- * Approximately 35,000 educationally deprived children throughout the state will be denied Title I, ESEA remedial basic skills summer programs.
- * The state will not be permitted to use more that $5 million in Title I, ESEA, and $1.5 million in Title I, Migrant funds this summer to conduct federally-funded programs.
- * Health services offered by educational program funds will be denied to 2,000 children of migratory families.
- * Special education programs will be cancelled for 1,143 handicapped children.

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*This statement is taken verbatim form the Commissioner's Report of the Citizen's Task Force to the Governor, June 17, 1976.

* More than 2,000 prospective handicapped children will be denied the opportunity to be evaluated to determine the nature of their disability and recommendations concerning their placement in school and the services they should receive during the 1976-77 school year.

* An estimated 500,000 children will not receive nutritious meals in the public schools from July through November.

* Additional unemployment will be created in July and August with the layoff of 2,500 Title I teachers and 1,500 auxiliary personnel (coordinators, paraprofessionals, clerical staff, high school and college student aides).

* Local school districts will not be permitted to recruit or employ teachers for the 1976-77 school year.

* The maintenance of 4,000 district-owned school buses and their state mandated inspections will be delayed, jeopardizing the safety of approximately 250,000 public school studnets to be transported to school in September.

* The state will lose over $1 million in federal school library funds.

* The implementation of federally funded training programs for teachers under Title III/IV C will be postponed, thus delaying the development of basic skills programs and adversely effecting 10,000 students during the summer and programs for 240,000 students during the forthcoming school year.

* EIC (Educational Improvement Center) training programs and technical assistance to local school district personnel will be delayed, threatening the effective implementation of Chapter 212 (the T & E law).

* The bidding process of 51 school building and site projects, including construction, additions and renovations, will be delayed, jeopardizing contracted services.

* Adult Education programs throughout the state will be cancelled or postponed. These programs include New Jersey Equivalency Diplomas, English as a Second Language, Basic Education Skills, and Adult High Schools serving 50,000 persons, including senior citizens, migrants, inmates and other adults.

A critical area of concern is the impact that the summer school closing will have upon more than 600 local school districts which use the summer months to plan essential activities for the opening of school in September. Among the activities which the delay would affect are:

* Enrollment of new students.

* Assignment of all students to classrooms.

* Development of student and teacher schedules.

* Development of school bus routes and schedules.

* Orientation of teachers.

* Selecting and ordering of textbooks, materials and equipment.

* Program and curriculum development and revisions of existing programs to meet student needs.

* Maintneance of facilities and equipment.

* Revisions to applications to be submitted to the state for approval.

* Preparation of mandated reports, both state and federal.

APPENDIX VI

TASK FORCE RECOMMENDATIONS*

- that parents, self-supporting agencies, and public agencies (within the limits established by the Supreme Court order and the Attorney General's opinion) be encouraged to expand or provide recreational programs to include handicapped students.

- that the Department of Education notify local school districts that children who will not receive nutritious meals through the National School Lunch Program may be able to receive meals from a Summer Food Service Program operated by local municipalities or another agency.

- that the Department of Education notify all Summer Food Services Programs of the crisis and encourage them to expand the program participants to include eligible students who will not be fed by the National School Lunch Program after July 1.

- that the Commissioner of Education review with the Attorney General to determine whether Opinion #3 includes the rental of school facilities to an agency or a municipality for the preparation and/or service of nutritious meals funded by federal Summer Food Services Programs.

- that the State Board of Education waive the age requirements for the General Educational Development (GED) test to permit the 4,300 high school seniors who will be denied summer courses to meet high school graduation requirements the opportunity of earning a high school diploma.

- that the Department of Education work with New Jersey Public Television to enlist assistance on using its statewide public television facilities to help the 4,300 seniors prepare for the GED test.

- that New Jersey colleges be encouraged to accept near-graduates directly affected by the court injunction and allow for their completion of high school graduation requirements under an existing program which grants a high school diploma to students who formally complete 30 hours of college credit.

- that business and industry be encouraged to waive high school graduation as a requirement for student employment until such time as the students affected by the school closing can complete diploma requirements.

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*The recommendations are taken verbatim from the Citizen's Task Force Report to the Governor, June 17, 1976.